REVIEW 2000

of the

SASKATCHEWAN
WORKERS' COMPENSATION
BOARD

RECURRING AND CURRENT ADMINISTRATIVE ISSUES

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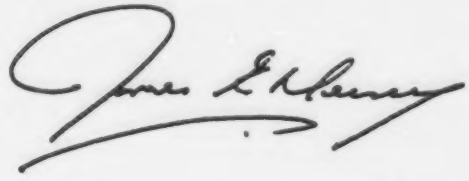
101-04714/

PREFACE

In the discharge of her ministerial responsibility, the Hon. Joanne Crofford, Minister of Labour and minister responsible for *The Workers' Compensation Act, 1979*, contracted for me to serve as her independent representative to undertake an administrative review of the Workers' Compensation Board and report my findings and recommendations.

The board gave me every form of assistance requested and opened all aspects of its administration to me. The Board members and many employees of the board willingly gave their time to speak to me, prepare written responses to questions and requests for documents and data. The workers' compensation program is fortunate to have the dedication of the people employed by the board.

This review would not have been possible without the tireless support and work of Mitchell Scott, Director, Program Evaluation, and Norm Bright, Information Officer. I am grateful and indebted to them for their support, efforts, critical analysis and painstaking attention to the details. Any errors or omissions are solely my responsibility.



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EXECUTIVE SUMMARY

The Minister of Labour contracted for an independent review of the Workers' Compensation Board as part of her responsibility to oversee and ensure attainment of the intent of *The Workers' Compensation Act, 1979*.

Administering Workers' Compensation

The principles at the core of the workers' compensation program are no-fault compensation for wage loss; collective employer liability and funding; security of payment to workers and their families; and administrative collection, adjudication and payment by an independent body with exclusive jurisdiction.

Coverage is mandatory for two-thirds of Saskatchewan workers. The principle of no-fault coverage is qualified in practice by the workers' duty to mitigate, which includes co-operating with health care providers and the board in rehabilitation.

Compensation benefits are standardized with maximum and minimum compensation rates. The administrative approach to adjudication is facilitated by the use of averages based on the worker's earnings experience. As a consequence, the program consciously under compensates some workers and over compensates others. Future loss for individual workers is determined by estimates followed by periodic reviews.

The board is given legislative direction on the amount and entitlement of benefits to compensate for wage loss. It is delegated a broad discretion in administering benefits directed to individual worker's needs arising from injury.

Governance and Accountability

The performance of the workers' compensation program depends largely on the motivation of the Board, which is mainly a function of the governance and accountability system in place for the board.

The structure and processes directing the board, charting its performance and reporting results to others constitute the governance of the board. Organizational accountability is setting goals against which performance is assessed, the methods of assessing performance against the goals and the consequences for failure. It involves knowing the board's mandate, who is accountable to whom, what information is provided to enable compliance and performance assessment and the means to act when responsible persons fail.

Governance and accountability have immense importance for the performance of the board, the confidence stakeholders have in the board and whether the program thrives and survives.

The report reviews principles of effective governance, the Board's composition and mandate and the recent change from a commissioner to a corporate governance model. It reviews the roles of the provincial government, the office of the Worker's Advocate and the Ombudsman.

There is no single set of accountability mechanisms or elements of governance that can be prescribed for every organization. The following are reviewed.

1. Financial reporting
2. Statement of Board duties
3. Strategic planning and performance management
4. CEO and executive performance evaluation
5. Reporting to government
6. Direct reporting to interested persons
7. Self-evaluation and reporting
8. Periodic public review
9. Internal audit and program evaluation
10. Quality assurance
11. Internal review – not appeal
12. External review – medical boards and review panels
13. Precedents
14. Policy directives
15. Freedom of information and file disclosure
16. Communications

Claims Experience and Administration

The frequency of injury, measured by the injury rate, has declined in recent years while the severity of injury, measured by the duration of compensation benefits, has increased.

Due to high investment income, the portion of the per claim costs being paid from current employer assessments is much lower than it has been over the decade. The actual average assessment rate is the lowest it has been in the past decade.

The ten-year trend from 1990 to 1999 is increased per claim costs. The percentage of the cost per claim spent on compensation payments to the injured worker and on vocational rehabilitation for the injured worker have decreased while the percentage spent on both medical aid and administration have increased. Medical aid costs have increased most dramatically. They now constitute 17% of the board's annual expenses.

The board has undertaken initiatives to improve the efficiency of the initial adjudication of claims.

Apart from monthly worker surveys, the board does not have a systemic process to monitor whether the persons making adjudication decisions conduct thorough investigations; consider all relevant information; reach conclusions supported by the information on file; appropriately apply the burden of proof; apply the applicable rule correctly; promptly reply to inquiries and requests with courtesy and respect; disregard extraneous or immaterial information; communicate and provide accurate information clearly to workers and employers; or communicate decisions with thorough explanations and comprehensive reasoning in support of the decisions.

In 1995 the board reported it had organized claims handling "... to provide more personalized service, and to provide a new concentration of expertise on those claims which were more complex or of greater duration." By 2000, the front line experience pool has grown shallower. The structure of the board's administrative approach does not segment claims to provide individualized attention to workers with complex or unusual circumstances.

The duration of treatment of workers referred to the early intervention program has increased from 1997 to 1999 and the percentage of return to work outcomes has decreased.

The board has no published policy on vocational rehabilitation and no comprehensive initiatives in its current policy agenda. The number of internal referrals of injured workers to vocational rehabilitation services has declined since 1995. During the past decade, the board has not appreciably increased expenditures on vocational rehabilitation.

Observations and Recommendations

1. Solid Financial Foundation Has Been Established

The board has secured future benefit payments for currently injured workers. Unprecedented investment income has enabled the board to bank healthy reserves.

This period of high investment income poses opportunities and challenges for the board. It can open access to discretionary benefits, as it did with its new policy on eligibility for independence allowances. It can continue its practice of setting provisional assessments rates in the fall, based on claims experience, and rebating surplus in the spring because of investment returns. This practice lessens the risk of rate shock, but runs the risk of rebate expectations not being met when market earnings recede. It also masks the current low cost of workers' compensation for employers, who do not understand the provisional rate setting methodology, or the reason for the surplus rebate they receive.

Alternatively, the board can reduce provisional rates based on an increased discount rate that assumes more optimistic investment returns. In the further alternative, it can

adopt a form of market segmentation and set different provisional rates for different industries, such as the public and private sectors.

2. Some Significant Challenges Have Been Faced

The board has identified and disclosed problems with past actuarial assumptions. It accepted the recommendations of the Neville Report and followed thorough with a new rate setting approach. It responded to the crisis in the Injured Workers' Program at Wascana Rehabilitation Centre by fostering the growth of secondary and tertiary assessment teams and treatment centres across the province. At the urging of the Provincial Auditor, the board restated its financial statements.

The board has opened new avenues of communication and dissemination of information to workers, employers and their representatives through Fall rate setting and Mid-year meetings. Further experimentation with the annual general meeting format and an expanded list of invited stakeholders will contribute to a communication forum that fosters dialogue.

Annual reports are more informative, although the board still shies away from discussing failings or frailties. The annual Compensation Institute and regular Compensation Reporter newsletter are sustained efforts to reach out to the community.

Through the new Prevention, Safety and Return-to-Work unit, the board has demonstrated a commitment to public education to lessen risk in the workplace and to prepare workplaces for the return of injured workers. Through its website, pamphlets, booklets, books and other publications, the board has championed the workers' compensation program and its many components.

3. Policy Directives - Many Are Not Available to the Public

The board has a statutory duty to make all of its policy directives available to the public. However, there are numerous unpublished resources referred to and used by board employees as the basis for decisions. The board ought to make a determined, focused and priority effort to compile and publish all of the policy statements, practices and procedures used by its employees for the basis of decisions pursuant to the statute.

4. Policy Making - Systematic, Proactive Approach Needed

There are significant gaps in the board's published policy directives. For example, there is virtually no published policy on vocational rehabilitation. The board ought to pursue a systematic, proactive approach to making a comprehensive set of policy directives.

5. Highly Individualized Decision-Making Requires Special Attention

The board should consider adopting processes, procedures and administrative structures, which provide more attention, experience and expertise to complex claims requiring highly individualized decisions.

Optimum outcomes will be best achieved by decision-making processes requiring peer or team consultation on pending decisions; full advance disclosure of all information on which the decision is intended to be made; and face to face meetings with workers and their families before making and communicating the decisions.

6. An Independent Appeal Tribunal For Individual Decisions

Workers and employers must go to the board. They cannot go to the courts and the independent judiciary. There is no administrative appeal tribunal separate from the persons governing and administering the workers' compensation program.

Over the years, Committees of Review have resisted establishing a separate appeal tribunal and repeatedly expressed the hope that other measures would respond to the complaints they heard and the problems they identified. The complaints and problems persist and the times have changed.

The prevalent, contemporary public expectation in the administration of justice is that aggrieved individuals will be able to appeal to someone free to decide conflicts according to procedurally fair rules without restraint, control or influence from outside forces or fear of reprisal. Self-correcting avenues of review by the same body, which made the original decision, do not meet contemporary public expectations.

An independent avenue of appeal to an administrative appeal tribunal is more likely to provide, and appear to provide, individual justice. An independent administrative appeal tribunal does not jeopardize the principle of exclusivity of the workers' compensation board's jurisdiction outside the courts. An independent appeal avenue enhances fairness and transparency and contributes to board accountability through the publication of appeal decisions.

It is time for the Saskatchewan workers' compensation program to include an independent avenue of appeal for individuals aggrieved by decisions of the board. Some of the issues to be addressed are identified.

7. Governance - Complete the Transition to Independent Oversight

The most significant recent event in the administration of the board was the adoption of a corporate model of executive leadership and the recruitment of senior and middle management with general managerial skills, not necessarily workers' compensation expertise or experience. Under executive leadership, the board has focused on an agenda of organizational change and renewal. The Board members

have consciously restricted themselves to being a governing, policy-making and appeal decision-making body.
With the creation of a separate appeal tribunal, the transition to governance by a body of part-time, independent, representative directors or governors should be completed. Its composition should reflect the historical role of organized labour and employers in oversight of workers' compensation.

8. Governance - Complete A Framework

By constituting themselves as a policy Board, not a management Board, the Board members have separated themselves from daily administration. Yet they retain ultimate control and responsibility. This has engendered confusion and tensions within the board that are not necessarily creative. The Board members should complete the transition by putting in place an effective governing framework.

There is a pressing need to define and publish the roles, responsibilities and relationships of the Minister, Chairperson, Board Members, Chief Executive Officer and Executive and Senior Management within the current structure. At present, there are too many blurred lines and a lack of clarity in delegation and authority. Senior board management members are unsure what commitments and decisions they and others can make. Others within and outside the board know, or sense, the uncertainty.

An effective governance framework is more than defining structure, roles, responsibilities and relationships. It includes other supports for objective and independent stewardship of the board. It includes the orientation and training of new Board members, standards of conduct, effective meeting and decision-making processes, strategies and controls for risk and liability and methods for evaluating and publicly reporting on performance.

9. Management Information - Compliance and Performance Measurement

The board needs to put in place a performance and compliance information system.

The board is unable to provide a complete, integrated picture of its administration. The board's auditors attest to the accuracy of the financial information. Many within the board do not accept the accuracy of much of the non-financial information. From the front line managers to the Board Members, there is a frustration over the absence of meaningful operational performance information.

On key and recurring questions of concern in the administration of the statute, the board does not monitor or is unable to produce compliance performance information. When and how often does it suspend benefits or decide to apply the benefit of the doubt? When and how often does it determine there is a pre-existing condition? Is it conducting itself according to its stated values?

10. Governance Information

The board is currently unable to provide the quality of information required for good governance. It should provide compliance and performance information in its annual report to the Minister that enables the Minister to measure immediate past performance against legislative intention and previously stated targets. The report should provide other information that assures the Minister that good governance practices are in place at the board. One example is that the Board has established key performance goals and objectives for the CEO and has evaluated performance against those goals and objectives. The report should also identify emerging issues.

11. Strategic Plan Needs Implementation Plan

The existing strategic plan does not give a clear picture of what the board will look like in three to five years. The board should produce a plan with measurable targets to do the things that implement the strategic plan. This is not just an improvement plan. The focus must be placed squarely on measurable results, not best efforts. For enduring commitment, the plan must be the product of the management and leadership team of the board, not consultants.

12. Vocational Rehabilitation

This part of the board's mission requires more attention. Recent legislative changes placed an emphasis on providing vocational rehabilitation programs to workers. To date, vocational rehabilitation is not identified as a specific part of the board's mission and little attention has been devoted to it in the board's annual reports, annual meetings and report to the Minister.

The number of referrals to the board's vocational rehabilitation services has decreased and the expenditures on vocational rehabilitation have been relatively static. There is no published policy on vocational rehabilitation. The relationship between the Client Service Representative and the Vocational Services Representative and the worker's place in decision-making requires attention.

1. INTRODUCTION

1.01 Purpose of Review

The Minister of Labour is responsible on behalf of the Lieutenant Governor in Council for the administration of *The Workers' Compensation Act, 1979*. As part of her responsibility to oversee and ensure attainment of the intent of Act, the Minister decided to engage an independent person to undertake a review of the Workers' Compensation Board's administrative policies and practices.

The purpose of the review is to assist the Minister in the fulfilment of her responsibilities and to enable her to consider changes to the delivery of workers' compensation benefits.

1.02 Review Methodology

The methodology for the review had five components.

1. Document Research

This consisted of compilation and review of statutes; regulations; board policies; annual reports by the board; Committee of Review Reports; reports of other government agencies; Board, judicial and any other decisions; past reports and internal studies; external reviews and commentaries; relevant literature; etc.

2. Data Gathering and Analysis

A broad range of statistical and other information was obtained from the board and other sources for the period 1990 to 1999. Various board documents were reviewed to ascertain the working practices of the board. Some time was spent with board employees while they did their work. Document review and interviews generated numerous requests for more information from the board throughout the period of the review.

Every reasonable effort was made to accumulate a ten-year profile of data on subjects discussed in order to identify any recognizable trends and changes in the past decade.

Some financial and other data reported in the board's annual reports was revised or restated in a subsequent annual report. The most recently reported statement was used.

3. Interviews

Persons familiar with the board and its operation from diverse perspectives were interviewed. Some persons were interviewed alone. Others were interviewed in small groups. All persons interviewed were assured comments would not be attributed to them. A list of the persons interviewed is attached as Appendix B

4. Reconciliation

A limited number of persons were selected to review the descriptive part of a draft report. They were asked to provide comment on the accuracy of the description. Their comments were considered and often incorporated into the final report. I am most grateful to these persons for their willing and timely review and frank and candid comments.

5. Report

The final step was preparation of the final report with observations and recommendations and presentation of the report to the Minister and Board Members.

1.03 Scope of Review

The final scope of the review and report was left to me. I consulted with the Minister and Board Chairperson and reviewed several potential issues and items they agreed were appropriate subjects to be considered for inclusion in the review.

The final report focuses on delegated decision-making under the statute, governance and accountability mechanisms and claims experience and administration. Within this framework, the review focuses on frequently "recurring and current administrative issues" confronting the board.

Within the time to do the review (June 6 to September 30, 2000) some aspects of the board's administration could not be reviewed. The subjects of employer classification and rate setting and collection were not examined. Actuarial and investments policies and practices were not reviewed in any depth.

Figure 1: Administrative Expenses

Expense	1990	1995	1999
Salaries	$9,467,000	$12,742,000	$16,355,000
Computer processing	$1,148,000	$3,772,000	$5,580,000
Employee benefits	$1,674,000	$1,566,000	$2,833,000
Consulting services	$0	$624,000	$2,858,000
Professional services	$180,000	$246,000	$747,000
Total	$12,469,000	$17,456,000	$27,626,000

Throughout a decade when the volume of claims remained static, the board significantly increased expenditures on staff, information technology and professional and consulting services in order to maintain and enhance organizational capability. These vital foundations of administrative performance were not reviewed.

2. A PUBLIC WORKERS' COMPENSATION PROGRAM

All employment involves some risk of injury or illness. All workers share a fear and insecurity of losing their job or being unable to work because of injury or illness. The workers' compensation program seeks to alleviate the insecurity and relieve the financial burden for individuals, families and the community. It responds to the consequences of employment related injury and disease by providing partial insurance.

The principles at the core of the program are no-fault compensation for wage loss; collective employer liability and funding; security of payment to workers and their families; and administrative collection, adjudication and payment by an independent body with exclusive jurisdiction.

To ensure security of future payment, the projected medical, wage loss and other future costs for present day injuries are fully capitalized today. A much less secure approach would be current cost funding, or pay-as-you-go.

The vehicle for administrative collection, adjudication and payment is a statutorily constituted tribunal administering a statutory program for a communal and public good, not for private or profit interests. This public tribunal is expected to be impartial, compassionate and vigilant in its mission. It is expected to be efficient and effective in the administration of the program.

Workers' compensation predates, and is distinct from, other strands in our public social safety net, such as unemployment insurance, health care, social assistance and public pension plans. The unique features of workers' compensation are:

- It is a compulsory substitute for tort claims in the general courts and gives employers and workers immunity from suit for negligence in the workplace. Each employer and worker receives this benefit as a participant in the statutory program. Workers come to the program with an entitlement to health care and compensation benefits because they cannot go to court. Compensation for loss, not need, is the first principle of legislated benefits.

- An independent administrative tribunal, not the elected government of the day, administers the workers' compensation program. The tribunal is a substitute for the courts and not an extension of the elected government. The tribunal is first and foremost part of the administrative justice system. It is not an economic development, social or dividend-producing agency for government, or others.

- The workers' compensation program is funded by assessments paid by compulsory, participating employers and revenue from investment, not by

general revenue raised by taxation. Current day employers are expected to pay for all the present and future costs of current day injuries.

- The scope, content and administration of workers' compensation are a fusion of evolved compromises between representatives of workers and representatives of employers. From time to time, after public review by representatives of workers and employers, the program and its governance structure are modified. Governments are expected to enact legislation to express and maintain the compromises without allowing either workers or employers to impose their will over the other, or to veto necessary change and renewal of the program.

- The administrative tribunal makes decisions about individual worker entitlement to compensation based on policies it determines to implement the statutory program. These decisions are final and not open to review by a court.

- Workers and employers assert an ownership over the statutory program and the tribunal administering the program. Trade unions ("labour organizations") and employer associations have direct influence on the selection and appointment of the representative members of the Board. As a consequence, the board's governance and accountability are more complex than most other administrative agencies established by legislation.

2.01 Prevention of Workplace Injury and Disease

Saskatchewan's 1928 Royal Commission on workers' compensation placed a high value on injury prevention. "Nothing is more important in any workers' compensation scheme than the prevention of accidents."[1] The Royal Commission favoured a single, not divided, jurisdiction over accident prevention vested in the Workers' Compensation Board. Legislators and public policy makers have favoured the board and the Department of Labour sharing jurisdiction.

This continues to be the institutional arrangement. The board generates revenue that it passes on to the Ministry of Labour to fund the "industrial safety program" under *The Occupational Health and Safety Act, 1993*.[2] The Ministry of Labour and provincial government are responsible for the efficient and effective expenditure of this $5.224 million in 1999, paid by the board from assessment and investment revenue.

The board is responsible to ensure first aid services are available to workers.[3] It must "consult and co-operate with the Department of Labour's Occupational Health and

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[1] *Report of the Royal Commission Appointed to Enquire into Workmen's Compensation for Saskatchewan*, in *The Story of Workers' Compensation in Saskatchewan* (1997, SWCB), p. 139.
[2] ss. 2(i) "industrial safety program"; 117(g); 119(a); 135(1)(c) and (2) (b).
[3] s. 110.

Safety Division "on matters relating to the health and safety of workers and self-employed persons."[4]

The board is empowered to supply to the Occupational Health and Safety Division information about employer accident experience, which the board "considers appropriate for the purposes of improving occupational health and safety."[5] The Occupational Health and Safety Council recently recommended to the Minister of Labour that the injury classification system should be rationalized "to allow for more sophisticated analysis of injury by type of injury, occupation and cause of injury."[6]

The board serves as fund-raiser and cashier for industry specific, injury prevention safety associations.[7] The money, which is passed on to each association, is raised through assessments on the employers in the rate groups that have formed the association. The board is responsible to ensure the money is spent for the reasons it is raised. It is responsible to hold the safety associations accountable for the effective and efficient expenditure of the money.

The board is not part of the regulatory regime setting and enforcing health and safety standards. It has no direct role in the workplace internal responsibility system, although it may use components of it to assist in strategies for returning injured workers to work.

The board can, and does, create financial incentives for employers. In setting annual employer assessment rates, the board has the authority to punish and reward employers for the claims cost experience of their workers through merit rating and other mechanisms. The component of the board's rate setting that is experience-based rewards and penalizes employers for their claims costs relative to other employers in their group.

Employers respond to experience rated assessments and their financial incentives. Their behavioural response may or may not be what the board hopes. Large and small employers may respond differently.

Financial incentives may prompt some employers to invest in, and pursue, strategies to reduce and eliminate both the frequency and severity of workplace injuries. It may encourage some employers to pursue legitimate claims management behaviour, such as establishing return to work programs, which assist in successful rehabilitation for injured workers. Or, it may provoke some employers to pursue illegitimate claims management behaviour, such as claims suppression or disingenuous work assignments for the disabled worker. The board does not have information on the response of employers to its rate setting based on claims cost experience.

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[4] s. 21.1(1)(e).
[5] ss.2 (r.3) "Occupational Health and Safety Division"; 139.1.
[6] The Occupational Health and Safety Council, *Review of The Occupational Health and Safety Act, 1993 of Saskatchewan* (April 2000), p. 14.
[7] s. 145.

Since its inception, the board has engaged in education and training about workplace risk and hazard identification, elimination or minimization, and management. Today, while most of the prevention responsibility is addressed by the industrial safety program,[8] the board has a Prevention, Safety and Return-to-Work Unit engaged in "injury prevention advocacy."[9] It develops and presents prevention education materials and injury prevention modules. [10] From 1995 to 1999, the board has presented 583 sessions to 5710 attendees on a variety of subjects – developing a safety program, stress, return to work, lifting, ergonomics, carpal tunnel syndrome, claims management and others. The number of sessions and attendees will be larger in 2000 than in previous years.

The Occupational Health and Safety Council has implicitly recognized the prevention role of the board by recommending that the board avoid duplication of prevention and safety programs under *The Occupational Health and Safety Act, 1993*.[11] The board is directly accountable to workers, employers and the public for its prevention expenditures as part of the cost it incurs in administering the workers' compensation program.

2.02 Not "Universal" Coverage – Two Thirds of Workers

The workers' compensation program is mandatory. It applies to all workers and employers in any industry in Saskatchewan, except the industries specifically excluded by legislation or regulation.[12]

Excluded industries, employers and workers may apply to be covered and employers and their families may opt for personal coverage.[13] Excluded industries may be included by Executive Council decision.[14]

An employer who carries on a mixture of covered and excluded operations has all its covered operations excluded unless the employer applies to be covered. Some workers resident in Saskatchewan are covered while working outside Saskatchewan.[15]

By express legislation or board policy, the program is extended to several categories of persons who are not employees and do not earn a wage - volunteers, inmates,

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[8] For recent activities see *Saskatchewan Labour Annual Report 1998-99*, pp. 7 - 10.
[9] Bonnie Hender, "Early Intervention and Return to Work at the Saskatchewan Workers' Compensation Board" (October 1, 1999; Association of Workers' Compensation Boards of Canada).
[10] E.g., "Carpal Tunnel Syndrome Injury Prevention Module", "Development Manual for Return-to-Work Programs", "Managing Stress", "Managing Chronic Pain", "My Back Is Killing Me", "My Hands Are Sleeping On The Job", "My Workstation Is Trying To Kill Me" and "It Only Hurts When I Move."
[11] The Occupational Health and Safety Council, *Review of The Occupational Health and Safety Act, 1993 of Saskatchewan* (April 2000), pp. 10 -11.
[12] ss. 3 to 6; 10 and *The Workers' Compensation Act Exclusion Regulations.*
[13] s. 12 and *The Workers' Compensation General Regulations, 1985*, ss. 12 - 16.
[14] s. 11.
[15] ss. 34 - 36.

learners, etc.[16] Because there is no wage, there is no assessable payroll. This extension of coverage is based on public policy choices, not insurance principles. One correlative consequence is that several organizations are extended immunity from suit for negligence.

Currently, 27.7% of the covered workers are employees of public sector employers, federal, provincial and municipal governments, crown corporations and health districts, which are 3.8% of the registered employers.[17]

Figure 2: Extent of Coverage by Workers' Compensation (1990 - 1999)

Coverage Profile	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Active Employers	28,966	28,465	28,253	28,803	29,613	29,020	28,222	29,473	31,246	31,110
Employees	454,300	453,400	448,500	450,800	455,700	459,400	457,500	470,000	476,300	480,100
Workers Covered	284,128	288,155	286,011	281,190	283,503	289,593	302,652	309,083	315,190	314,048
% of Workers Covered	62.5%	63.5%	63.7%	62.4%	62.2%	63.0%	66.1%	63.8%	66.17%	65.41%
Union Members	98,467	103,647	105,731	101,883	105,115	104,387	107,405	115,670	119,000	126,500
Opted for Coverage	5,861	5,602	5,327	5,425	5,493	5,367	4,633	4,958	4,857	4,921

Sources:		
	Active Employers:	Registered with WCB
	Employees:	Statistics Canada
	Workers Covered:	Derived by WCB
	Union Members:	Saskatchewan Department of Labour
	Opted for Coverage:	Registered with WCB

2.03 No-fault Coverage – But Not Entirely

Workers covered by the statute may not sue employers or other covered workers for work related injuries and diseases.[18] The board has exclusive jurisdiction to decide whether a worker will receive compensation.[19]

When "a worker suffers an injury, he is entitled to compensation." An "injury" is broadly defined and includes wilful and intentional acts "not being the act of the worker." It also includes an "occupational disease."[20] The worker and employer must give notice of any injury or death to the board.[21]

A vexing public policy issue arises when the negligent employer, compulsorily or by choice covered by the statute, is a professional, usually a health care professional, engaged in his or her profession. In this situation, an injured worker who suffers as a

[16] s. 2(t) "worker"; 2(l.1) "learner"; *SWBC Policy Manual*, Part 1.0 - Coverage.
[17] The estimated assessable payroll for 2000 for the public sector is 28.6% of the total estimated assessable payroll.
[18] ss. 44 and 185.
[19] s. 22.
[20] ss. 28, 2(k) "injury" and (r.2) "occupational disease."
[21] ss. 45 - 48.

consequence of professional negligence, perhaps while receiving health care paid for by the board, may have no common law remedy against the professional. Some argue immunity from suit for professional negligence is not necessary to maintain the efficacy of workers' compensation and that there is no historical basis to extend this immunity to professional negligence.[22]

The administration of the workers' compensation program is designed to bypass inquiries into fault. Injuries arising out of employment are presumed to have occurred in the course of employment and vice versa. Workers found dead at work are presumed to have died as a result of a work related injury.[23] A claim is not to be rejected and the amount of compensation is not to be reduced because the injury was an aggravation or acceleration of some earlier or pre-existing condition.[24]

Inquiries into fault or blame can occur in claims cost reassignment between employer rate groups or employers within the same rate group.[25] This is done to maintain equity in cost assignment between employer rate groups, to encourage employers to employ workers with prior injuries and to support experience-based assessment incentives for employers within a rate group.

The board is directed to decide each case based on the "real merits and justice" of the case. It is not "bound to follow any legal precedent." The board must resolve an "issue in favour of the worker" when the "evidence in support of the opposite side is approximately equal."[26] This is another expression of the principle of no fault coverage. The board has the power to obtain the necessary evidence.[27]

Determinations of worker fault, either before or after the injury, can disqualify the worker from compensation. A worker who is entitled to compensation may misbehave before the injury and lose his or her entitlement. This can only happen when a worker's serious and wilful misconduct is the sole reason for the injury and provided the worker does not suffer serious functional impairment or death.[28]

More significantly, misbehaving after an injury may disqualify a worker from receiving benefits. Individual workers must submit to board-directed medical examinations.[29] Each worker must mitigate his or her loss of earnings and co-operate with the board.[30] The more closely the board oversees and manages the care and

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[22] [22] See *Lindsay v. Workers' Compensation Board* (1997), 161 Sask. R. 182; [1997] S.J. No. 718 affirmed by the Saskatchewan Court of Appeal.; leave to appeal to the Supreme Court of Canada denied [2000] 1 S.C.R. 59; [2000] S.C.J. No. 4; and *Kovach v. Singh* (1996), 84 B.C.A.C. 176 and [1998] B.C.J. No. 1245.

[23] ss. 29 - 30.

[24] s. 50.

[25] s. 144; *Policy Manual* Part 2.2 - Cost Relief; *Client Service Representative Training Manual*, Class 20.

[26] s. 25.

[27] ss. 23 - 24 and 27.

[28] s. 31.

[29] ss. 57 - 58.

[30] ss. 51.1 and 104(4)(v).

rehabilitation of the worker, the more circumstances there will be when the worker may be considered to be uncooperative, or to be failing to take the appropriate steps to mitigate his or her loss.

The expected co-operative behaviour is principally with health care providers and secondarily in the worker's relationship with the board. In the relationship between the worker and health care providers, the board acts as a third party decision-maker to which sometimes conflicting versions of events are reported.

In the relationship between the board and an injured worker, the balance of power is overwhelmingly with the board. The nature of the uncooperative behaviour can be failing to do what the board requires. It can be discourteous, rebellious or unruly behaviour toward employees of the board, who are subjected, at times, to abuse by workers and employers. The board is the sole and final judge of whether a worker has or has not co-operated.

Through its employees, principally the Client Service Representative (CSR) assigned to the injured worker's claim, the board can suspend or terminate compensation payments to the worker, and therefore to his or her family. The decision can be a CSR's response to the worker's behaviour in his or her relationship with that CSR. The power and authority of the CSR in the worker-board relationship permeates interactions between individual workers and the board. The converse is that the behaviour of the abusive or unrelentingly pestering worker can pressure the board to provide faster or more service than the co-operative, patient worker. Some workers experienced with dealing with the board may have more detailed knowledge about the inner workings of the program than new CSRs.

Suspension of compensation is the negative consequence the board uses to compel workers to disclose personal information and to participate in a physical or psychological assessment. Based on its assessment of the extent to which a worker exhibits risk factors for chronicity, moral hazard, or secondary gain, the board can use the prospect of suspension of compensation payments to compel the worker to submit to physical and psychological examinations and, more indirectly, to participate in treatment and counselling.[31] The board is unable to produce a report on the number, duration, or monetary value of payments suspended.

The statute does not stipulate the right of a worker to select the physician or medical or rehabilitation treatment he or she considers to be in his or her best interest. As a practice, the board does not interfere with the individual worker's choice of primary care giver. However, between the injured worker being able to make reasonable choices and to change the choice about treatment, and the injured worker's duty to mitigate by adhering to the board's recommended choice, the board's choice will prevail. The board has the following letter among its standardized letters for CSRs:

[31] s. 104(4).

We have been informed by KEYBOARD (Treatment Provider) that you have not been attending all of your treatments as scheduled.

Section 51.1 of the Workers' Compensation Act, 1979, states:

"A worker shall

(a) take all reasonable action to mitigate the loss of earnings resulting from an injury; and

(b) where the circumstances require, co-operate with the board in the development of a rehabilitation plan that is intended to return the worker to a position of independence in suitable productive employment."

By missing work or treatment you are not fully participating in the program as required and are therefore not acting in accordance with the above. We must, therefore, suspend your benefits for those days that you do not attend.

Unless or until you are prepared to meet your obligations for regular attendance as outlined above, your benefits will remain suspended. It is our hope that you will not miss any further treatment dates with KEYBOARD (Treatment Provider) or miss any further work. If you do so without good reason, we will assume that you are no longer interested in participating in the program and we will close your file, terminating benefits.

Sincerely,

KEYBOARD (CSR)
Client Service Representative[32]

There are statutory and board-fashioned conflict resolution mechanisms for disputes between the board and a worker about medical issues. The former is the Medical Review Panel.[33] The latter is the medical board.[34]

2.04 Compensating Approximate Loss & Need – Entitlement & Discretion

Injured workers and dependants are compensated for loss arising from a work related injury or disease.[35] Benefits are standardized for all workers.

The statute employs the worker's basic wage at the time of the disability to determine the worker's loss and compensation entitlement. As a consequence, the amount of compensation is not an individual worker's precise loss. Loss of earned benefits, such as dental or life insurance or pension contributions, are not compensated. An injured worker who receives a larger portion of total compensation in wages than benefits

[32] Word Pro Letter NOCOMPLY in "Smartmasters - Client Services" Update January 11, 1999.
[33] ss. 60 - 66.
[34] Policy No. 21/94
[35] ss. 28 and 2 (k) "injury"; (r.2) "occupational disease."

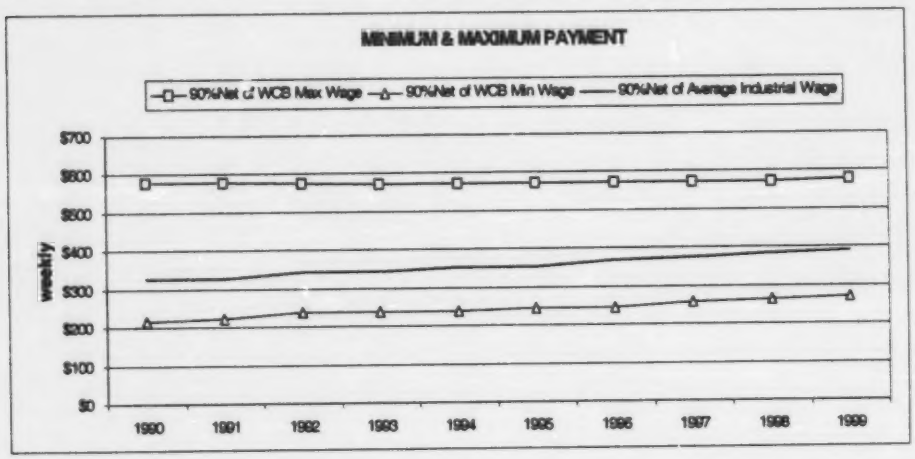
will receive more from workers' compensation than another injured worker who receives the same total compensation but lower wages and more by way of benefits.

Another consequence of standardized benefits is that some workers are under compensated and some workers are over compensated. A statutory maximum and minimum wage rate sets the ceiling and floor for compensation.

The maximum wage rate has been fixed at $48,000 since 1986.[36] Workers who earn more than the maximum wage receive no compensation for their loss above the maximum wage. Workers who earn less than the minimum wage rate receive more than their wage loss. The minimum is annually adjusted to be "not less than one-half of the average weekly wage as of June" from the preceding year.[37]

For individual injured workers, the maximum compensation entitlement is 90% of their "earnings" up to the maximum wage. Their "earnings" is their gross earnings adjusted to deduct probable income taxes and probable Canada Pension Plan and unemployment insurance premiums. The board produces an annual table of earnings to reflect the net rate.[38]

Figure 3: Maximum and Minimum Coverage Compensation Payment (1990 - 1999)



Since 1986, the unadjusted maximum ($48,000) and the annually adjusted minimum have been converging. Since 1990, the maximum 90% net weekly rate has fallen from 130.11% to 106.33% of the average weekly wage and from 268.72% to 214.18% of the minimum wage rate. The convergence throughout the 1990s with the maximum, minimum and average industrial rate adjusted to 90% net is depicted in Figure 3.

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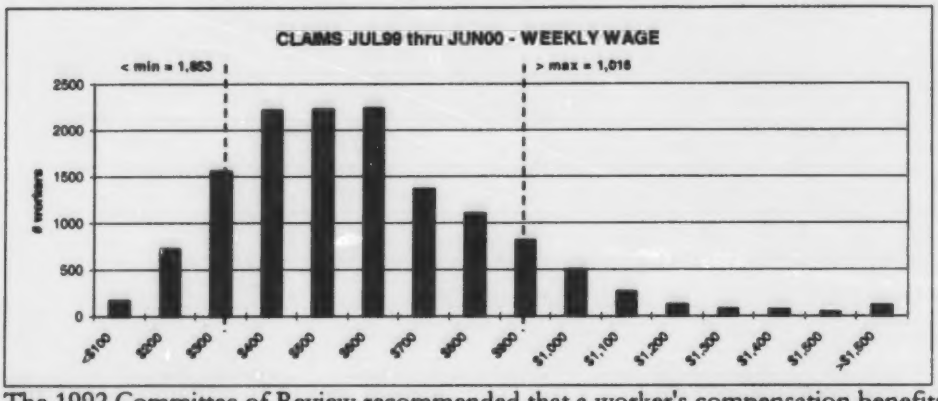
[36] ss.38.1 and 2(n) "maximum wage rate."
[37] ss. 76 and 83(1)(b). There is no deduction of Canada Pension Plan benefits against the minimum. (Policy 37/83)
[38] s. 68.

For 13,596 time loss claims accepted during the twelve months from July 1999 to June 2000, the injured workers' wage rate distribution was 1,016 (7.5%) workers above the weekly maximum of $923 and 1,835 (13.5%) workers below the weekly minimum of $271.11.

Figure 4: Wage Distribution on Accepted Time Loss Claims July 1999 to June 2000



The 1992 Committee of Review recommended that a worker's compensation benefits be insulated from erosion through increased taxes to a rate below the benefits he or she first received.[39]

The regular adjustment of benefits in accordance with increases in the Consumer Price Index offsets some of the effects of under compensating and provides increases that most workers do not regularly receive. At the same time, increases in the minimum wage elevate the floor for minimum future earnings estimations.

Need, not loss of earnings, is a determining factor for receipt of some benefits. The legislated minimum wage rate is need-based. Legislated dependant benefits for widows, widowers and children are, in part, need-based.[40] Compensating for 90% of earnings, rather than 100%, seems to be a reduction of loss based on need.

The amount for each benefit based on need is not always specified in the statute. A worker is entitled to "necessary" medical aid resulting from an injury.[41] What is necessary for each injured worker is an exclusive decision of the board. The board may provide assistance to lessen or remove any handicap resulting from an injury.[42] These are decisions about the needs of the worker, which arise as a result of the injury. The board may provide special medical aid when "it will be in the interest" of the Injury Fund.[43] These are decisions about the needs of the program.

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[39] *A Report of the Workers' Compensation Act Review Committee, August - 1992*, p. 29.
[40] ss. 82 - 97.
[41] s. 106.
[42] s. 115(b).
[43] s. 113(b).

The common characteristic of most of the benefits based on need is that, while individual injured workers may be explicitly entitled to them.[44] Payment depends upon a discretionary policy or individual decision by the board on the amount of the benefit and whether the worker will receive them initially and continue to receive them.

For a significant group of benefits based on need the board has the discretionary authority to decide what it considers "necessary or expedient" to assist an injured worker to return to work.[45] Vocational rehabilitation benefits are varied – counselling, assessment, career planning, education, training and assistance with job search and placement.[46] They are to be tailored to each worker's situation.

The statute expressly directs the board to "consult and co-operate" with workers and surviving dependent spouses in the development of rehabilitation plans.[47] The board decides which injured workers and dependent spouses receive these benefits. The possibility of termination or reduction of compensation by the board overhangs a worker's acceptance and compliance with what the board prescribes.[48]

The board's discretion is not restricted to benefits based on need. For example, need is not the determining factor for entitlement to an independence allowance. To be eligible an injured worker must have sustained a "severe" permanent functional impairment (PFI).[49] The board may award an independence allowance "in any amount that the board, in its discretion, determines up to 10%" of the maximum lump sum amount for a permanent functional impairment ($22,600) or $2,260 per annum. The minimum amount for a permanent functional impairment is $1,100.

The board's physicians determine the extent of a permanent functional impairment by using a "rating schedule" established by the board.[50] In fact, there are two schedules. One for publication and a more detailed one for internal use.[51] Neither is in the board's published policy manual.

The board has published policy on "administrative PFIs."[52] These relate to occupational diseases and respiratory and dermatitis and work environment substance allergies developed by workers such as hairdressers, grain workers and auto body workers. The purpose of the policy is to give awards for injuries that would not qualify through the schedules.

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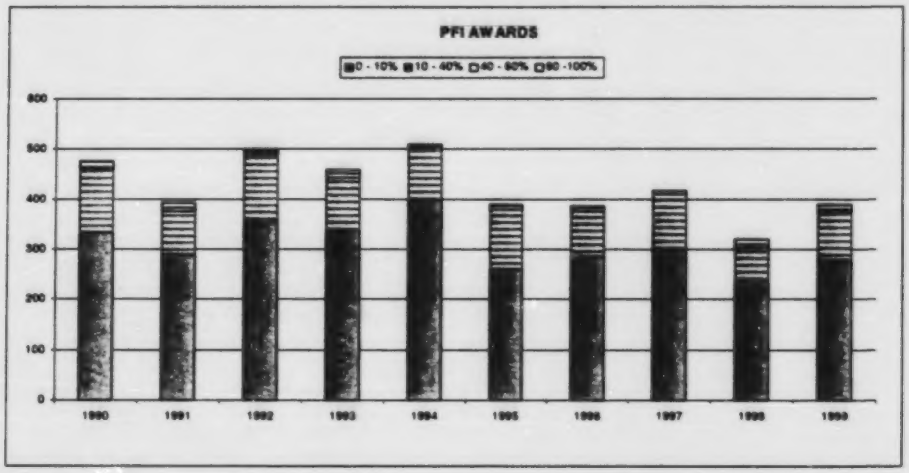
[44] E.g., ss. 21.1 and 106
[45] s. 115(b).
[46] s. 2(s.2) "vocational rehabilitation."
[47] S. 21.1(1)(d).
[48] s. 104(4)(b).
[49] s. 67(1).
[50] s. 67(1).
[51] *Workers' Compensation Board of Saskatchewan Functional Impairment Rating Schedule For Publication*, January 1980; *Workers' Compensation Board of Saskatchewan Functional Impairment Rating Schedule (For Internal Use Only)*, undated.
[52] Policies 08/86 and 25/90.

One-time, single payment awards for loss of permanent functional impairment are compensation for loss. Between 1990 and 1999 the annual number peaked at 509 in 1994. The number has been slightly over or under 400 each year since 1994. The awards, which include hearing loss, have been predominantly below 20%. Few have been at or above 40%.

Figure 5: Permanent Functional Impairment Awards (1990 - 1999)



An independence allowance assists in paying for the additional costs of maintaining home and property, and to allow an injured worker to maintain a reasonable degree of independence. Other income or payments from the board do not affect eligibility. The allowance is paid annually for life. The board has had policy since this benefit was first enacted in 1985. In 1994, the board defined severe as greater than 40% permanent functional impairment.

A 1997 appeal[53] prompted the board to review its policy. In 1999, the board adopted a new published policy. Under it "severe" remains at 40%, or greater. Less than 10% is deemed not to be severe. Between 10% and 39% consideration will be given to a prorated or adjusted allowance [(PFI% ÷ 40%) x 10% of Maximum PFI Amount = Adjusted Allowance]. This policy creates greater certainty of both entitlement and the amount of the allowance. It simplifies administration[54] and has had no major cost impact to date.

[53] Claim #79 07 4973 11B.
[54] Policy 01/99.

Figure 6: Independence Allowance Costs (1992 – June 2000)

1992	1993	1994	1995	1996	1997	1998	1999	2000*
$574,968	$630,020	$1,054,426	$1,188,746	$1,014,398	$1,007,310	$947,307	$1,093,599	$568,486

*June 30th

In a separate policy, the board has established standards for permanent functional impairments in the nature of physical disfigurement as a result of an injury or surgery or other treatment.[55]

This interdependence between permanent functional impairments awards and independence allowance, neither of which depend upon reduced earning capability, illustrates some of the overlap between principles of loss and need in benefit entitlement.

While initial receipt of medical aid and compensation for a work related injury is a matter of legal entitlement, continued receipt is a judgment or discretionary decision about the individual worker's continued need. CSRs decide daily on behalf of the board whether individual workers continue to suffer the physical or loss of earnings consequences of an injury. They decide whether individual workers are sufficiently recovered to return to work with or without ongoing pain management, medication or other support. They decide whether the consequences of the injury have been resolved and whether what the worker continues to experience is the result of a pre-existing condition, or something not related to the "effects of the injury," even if the worker is unable to return to work.[56]

Injured workers come to the board with medical histories, weaknesses, previous injuries, existing disabilities, vulnerabilities and degenerative conditions. A worker may have a personal predisposition or susceptibility so that a workplace event or activity produces an injury beyond the average severity. As a consequence, the recovery time for the injury will be much longer than the average, which, by definition, will be too short for many workers.

The worker may have had an active, but asymptomatic condition. A minor work related event can trip the body into a major crisis. In the extreme, for example, a minor fall or exertion at work may bring on a heart attack because of a pre-existing, deteriorated heart condition.

The workers' compensation program accepts full responsibility initially and pays benefits without apportioning fault or causation among multiple factors. Section 50 states:

> The board shall not reject the claim of a worker or a dependant for compensation or reduce the amount of compensation payable by reason of a

[55] Policy 09/98.
[56] s. 104(4)(a).

> pre-existing condition of the worker if the injury materially aggravates or accelerates the pre-existing condition to produce a loss of earnings or death.

The board's policy is that: "Section 50, however, does not extend coverage beyond the effects of a work injury. Accordingly, the board has no responsibility for disablement or other effects arising solely from a pre-existing condition."[57] If the work related injury **aggravates** the pre-existing condition, then benefits cease when "the worker has recovered from the effects of the work injury." If the work related injury **accelerates** the pre-existing condition, the worker receives benefits for the effects of the acceleration. If an asymptomatic, pre-existing condition becomes symptomatic because of a work related injury is it an aggravation or an acceleration of the pre-existing condition?[58] The board's responsibility is to give the benefit of the doubt to the worker.[59]

Some pre-existing conditions will enhance the degree of disability from an injury. For example, a worker with sight in only one eye who injures the other eye will suffer a greater loss than if he or she still had one uninjured eye.

Returning the worker to his or her pre-injury physical condition, deciding exactly what that is and when it has been achieved is challenging. The 1992 Committee of Review members were unable to agree.[60]

In 1999, benefits were terminated for 1,755 workers who had not returned to work. Many of these may have been seasonal or similarly employed. Presumably, many of them had completely recovered from their injuries. However, the board is unable to produce data on decisions about the existence of pre-existing conditions among injured workers, whether the injury was judged to materially aggravate or accelerate the pre-existing condition and the effect that judgement had on the extent or duration of benefits. All injuries for which medical aid or compensation is claimed are either not work-related, entirely work-related or partly work-related. The board has a cost relief policy assigning costs to the Second Injury and Re-employment Reserve because of a pre-existing condition.[61] This should be a rich source for claims data on pre-existing condition experience.

The board, through its CSRs, may terminate compensation because it has decided an individual worker's work related injury has been resolved or the worker has all the necessary skills and abilities to obtain "suitable productive employment."[62] The worker may not agree that he or she is capable of doing what the board decides the worker can do and that he or she no longer needs assistance.

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[57] Policy 01/2000.
[58] An example of the difficulties in deciding this question is claim #1000-3074 01B in which the CSR and Appeal Committee found an aggravation. The Board members found an acceleration.
[59] s. 25(2).
[60] *A Report of the Workers' Compensation Act Review Committee, August 1992*, pp. 43 - 44.
[61] Policy 14/1999.
[62] s. 104(4)(b).

For a statistical minority of workers, there will be an abnormally prolonged recovery period, perhaps without any clinically verifiable cause, and perhaps with chronic pain that did not exist before the injury. The workers may be receiving sub-optimal diagnosis and treatment. Attributing the prolonged recovery or chronic pain to pre-existing conditions absolves the workers' compensation program of responsibility, but does not restore the worker to his or her pre-injury, at work circumstance.

For these workers, their functional ability has been impaired because of the overlay of a work related injury on a pre-existing condition, which may have been an acute susceptibility – a "thin skull." They are disabled even if there is no structural damage to their bodies. This is a circumstance where the administrative approach often provides appropriate coverage for the "average" worker, but not for all workers because of their individualized characteristics. For these workers, approximate loss coverage does not meet their needs.

2.05 Administrative Approach – Averages, Estimates and Future Reviews

No fault compensation and administrative adjudication entail more than standardization of benefits and deliberate over and under-compensation. To simplify and expedite the inquiry and adjudication process, an average, not individual circumstances, is often the standard for compensation and administrative treatment. Past certainties – not future contingencies – are used to determine loss.

The administrative approach has an emphasis on serving collective justice – an average loss for an average worker – not necessarily individual justice for each injured worker. This generates friction when individual workers or individual employers consider the worker has been inadequately or unfairly compensated.

Conflict can arise over one of the threshold issues in the adjudication of a claim. The board must determine the injured worker's "average weekly earnings" to determine the loss of earnings.[63] Discontinued or interrupted employment benefits, which form part of the worker's total remuneration are excluded. Allowances for expenses, regardless how generous they may have been or whether they provided a "profit" to the worker, are not included.[64] In determining average weekly earnings the emphasis is on past earnings, whether they are a good or bad predictor for, or the best evidence of, an individual worker's future loss. It is administratively simpler to inquire into past earnings than hypothetical future earnings, which may be difficult for the worker to prove.

Except for workers in training,[65] career prospects and future promotions are not considered. At the same time, negative future prospects, such as layoffs, are not

[63] ss. 68 - 70.
[64] s. 70(3).
[65] s. 51.

considered. Sometimes it is forgotten this is one of the trade-offs that will result in under compensation for some injured workers and over compensation for others. Section 70(1) states:

> Subject to subsections (3) to (5), "**average weekly earnings**" means the greater of:
>
> (a) one fifty-second of his earnings for a period of twelve months immediately preceding the commencement of the loss of earnings as a result of the injury, or
>
> (b) the rate of daily, weekly, monthly or other regular earnings that the worker was receiving at the commencement of the loss of earnings as a result of the injury.

The more casual, intermittent or irregular the past employment, the more disagreement there may be about which past earnings should be used to determine the current and future loss of earnings.

The statute expressly recognizes that in some circumstances it will be inequitable to use the individual's earnings and the average earnings of "a person regularly employed in the same grade of employment shall be taken into consideration."[66]

Administrative simplicity or efficacy often clashes with a concern that an injured worker is being "over" or "under" compensated. This consequence of trading-off individualized judicial justice for administratively simple, collective justice is difficult for many to accept. The board asked the 1992 Committee of Review for direction on this issue.

> The current [s. 70(1)] was introduced into the Act in 1974 and was really the want of the board of that time. The board was looking for a much more simple method of establishing average weekly earnings.
>
> **c. Problem**
>
> The current legislation provides that if a worker suffers injury on the first day of employment compensation may be calculated on the rate of hire if this is greater than the worker's average weekly earnings. In the 12 months prior to injury, e.g. 40 hour work week at $15.00 per hour.
>
> The board is concerned that in some situations, including workers who work, seasonally, the rate of hire far exceeds the worker's average weekly earnings in the year prior to injury and, therefore, is not a true reflection of the worker's historical earning pattern, but rather is over compensation.
>
> A second concern is that in such cases it is often impossible to remove or substantially reduce long-term earnings loss. The board's Vocational Rehabilitation Department finds it very difficult to retrain or otherwise find

[66] s. 70(4).

> alternative employment for workers with limited skills to permit them to earn the wage they were when injured.
>
> Actual case examples will be available during the board's presentation. The board would very much appreciate the Committee's views on this matter.

The Committee's reply was succinct and explicit – average weekly earnings is "the greater of "either (a) or (b) in section 70(1). Its recommendation was that the board ensure its policies "reflect and are consistent with subsection 70(1)" of the statute "as written." The Committee appears to have been more willing than the board to accept the cost and consequences of the trade-off.

The issue resurfaces for the board and the debate is renewed with each difficult case. It most frequently arises when there is a belief a worker's wage at the time of injury exceeds the worker's average weekly earnings over the previous year. The board's response has been to shift the focus to what is meant by "regular" earnings under s. 70(1)(b). If there are no "regular earnings" at the time of injury, then must the lower amount under (a) be used? Can possible future earnings ever be considered in cases other than workers in training?

The specific legislative direction of s. 70 is not something to be overridden by the board's general authority to decide upon "the real merits and justice of the case."[67] Nor does the board's exclusive jurisdiction to determine "the degree of diminution of earning capacity caused by an injury"[68] give it an authority to deviate from the express direction in s. 70(1).

In a recent case of an oilfield worker, his initial average weekly wage was set at his 1988 earnings at the time of injury, $730.96 gross wages per week. He had worked for over seventeen weeks and had earned a total of $12,599. In subsequent proceedings in May 1994, the Board members recalculated his average rate as 1/52nd of $12,599 or $242.29 per week. This was below the minimum compensation so he was compensated at the minimum rate.

The Board members affirmed this decision in May 1995. The worker applied for judicial review to the Court of Queen's Bench. The Board members reviewed the case and met with the worker and his lawyer in December 1996. It found that the worker's earnings at the time of his injury were not "regular" earnings under s. 70(1)(b). The Board members decided he did not have regular earnings and reaffirmed their May 1994 calculation.

The Court of Queen's Bench disagreed. It held that the reference to the rate of pay in s. 70(1)(b) is a reference to the method of payment and not to the regularity of employment. "I am unable to find any provision in the Act which allows the board to arrive at a lesser sum on the basis that the employment was seasonal, part-time or

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[67] s. 25(1).
[68] s. 22(1)(e).

casual."[69] The board appealed. The Court of Appeal restored the board's decision because the board's decision was not "patently unreasonable." Leave to appeal to the Supreme Court of Canada was denied in August 1998. A request for policy direction on section 70 has been before the Board members since September 1999.[70]

The Court of Queen's Bench plain language reading of s. 70(1)(b) is consistent with the 1992 Committee of Review response to the board's inquiry. Using averages will benefit some and disadvantage others. The board's focus on "regular" will decrease compensation for those considered to have been over compensated. It will not increase compensation for those considered to have been under compensated.

The front line decision-makers at the board require policy direction on this issue. Section 70(4) is one avenue to address the seasonal worker wage rate issue.

> S. 70 (4) Where the worker was not available for employment for the full period of twelve months immediately preceding the commencement of his loss of earnings resulting from the injury, and where by the casual nature or the terms of his employment it is inequitable to compute his average weekly earnings as specified in subsection (1), the average earnings as determined by the board that were earned by a person regularly employed in the same grade of employment shall be taken into consideration.

When an injury or disease results in a worker losing earnings, the board must determine the loss within the statutory maximums, minimums and setoffs and pay compensation "as long as the loss of earnings continues or until the worker attains the age of 65."[71]

While simplification of inquiry in adjudication enables earlier payment and reduced administrative cost than in the courts, the task of estimating long-term loss necessarily involves almost the same complexity. It requires more attention to the injured worker's individual circumstances and more individualized decision making. Estimating an individual's future earning capacity based on pre-injury earnings and likely post-injury earnings requires a review of the accuracy of the pre-injury earnings used for initial, short term wage loss adjudication. It involves some initial speculation about possible post-injury employment. Periodic review of earnings can help remove the speculation.

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[69] *Bax v. Saskatchewan (Workers' Compensation Board)* [1997] S.J. No. 406, ¶15.
[70] See Appendix E.
[71] s. 68.

In 1982, the board adopted a policy on estimating the wage a worker was capable of earning.[72] The Committee of Review concluded in 1986 that when the board was estimating future earnings loss, it was incorrectly deciding or "deeming" that injured workers:

- could do work for which they were not qualified or trained;
- were capable of earning unrealistic rates of pay; and
- were capable of obtaining work in fields where job opportunities did not exist.[73]

As a consequence, compensation in the form of income maintenance was being cut-off entirely, or wrongly reduced. There was "estimation rage" in the public hearings. The Committee of Review considered "deeming" to be the most "crucial issue faced by the committee." It concluded:

> It is not the responsibility of the board to guess what the worker's earnings would be if only the worker could get a job. It is the board's responsibility to rehabilitate that worker and aid the worker to return to productive employment.[74]

The board's response was that its responsibility is to determine if the worker is able to return to work, not to ensure the worker, in fact, returns to work.[75]

In a June 28, 1988, directive on estimating loss of earning capacity and an accompanying Earnings Replacement Policy, the board said that the three circumstances identified by the Committee of Review should not occur. While not accepting that the board was responsible to guarantee employment, it accepted responsibility to "ensure that all injured workers are 'job ready' and receive appropriate periods of associated job search." It adopted the following new policy:

> In addition to the recommendations of the Committee of Review, the board believes that a more comprehensive approach must be taken to ensure that the process of estimating earnings loss is properly applied. These changes will include expanded vocational rehabilitation efforts and changes to the earnings replacement process within the following 18 point program:
>
> EXPANSION OF VOCATIONAL REHABILITATION
>
> While expansions in the area of both vocational and physical rehabilitation have occurred, additional improvements will be implemented to ensure that injured workers receive the necessary training, employment search and other support to ensure 'job readiness'.

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[72] *"Estimating the Wage a Worker is Capable of Earning"*, Board Directive 45/82, November 22, 1982.
[73] *Report of the Workers' Compensation Act Review Committee, 1986*, pp.17 - 18.
[74] *Report of the Workers' Compensation Act Review Committee, September 1986*, p. 21.
[75] *Saskatchewan Workers' Compensation Board Submission to the Minister on the Report of the Workers' Compensation Act Review Committee*, December 1987, p. 21. See the subsequent *Report of the Workers' Compensation Act Review Committee, August 1992*, pp. 7 - 15.

1. All vocational rehabilitation programs will be directed towards jointly established and clearly focused employment opportunities.

2. Current experiments with 'job clubs' will be expanded to assist injured workers in locating suitable employment.

3. A formal 'Training on the Job' program will be established in order to provide specific training with a direct employment focus.

4. The 'Training on the Job' program will be promoted to better inform employers of this option and will contain appropriate incentives to encourage employers to hire injured workers following training.

CHANGES TO EARNINGS REPLACEMENT CRITERIA

A number of changes will be made to the process and procedures related to the estimation of earnings replacement.

5. Referrals to the Earnings Replacement Division will only be made when the worker is "job ready" and must be authorized by senior personnel in both the Claims and Vocational Rehabilitation Departments.

6. Workers at the age where re-entry to the work force or vocational rehabilitation is impractical will be paid actual earnings loss rather than an estimated replacement.

7. In determining a worker's earnings replacement, local wage information will be normally used rather than provincial or regional averages.

8. Workers who are estimated to be able to earn only the minimum wage will have their original wage base indexed annually but the minimum wage will remain at the Provincial level.

RE-STRUCTURING OF THE EARNINGS REPLACEMENT DIVISION

A new Earnings Replacement Division will be expanded within the existing Claims Department.

9. The Earnings Replacement Division will report to a new position of Assistant Director of Claims.

10. The Earnings Replacement Division will consist of additional staff positions.

11. The Earnings Replacement Division will consist of at least two units each led by a senior staff position.

12. A new Quality Assurance Program will be implemented to ensure that policy and guidelines are properly followed.

OPERATIONS OF THE EARNINGS REPLACEMENT DIVISION

With changes in legislation, the requirement for an annual review of earnings loss will be eliminated. More resources can be devoted to the estimation and establishment of earnings replacement.

13. A newly established earnings replacement will not ordinarily require a review until its third anniversary and every third anniversary thereafter.

14. Existing earnings replacement payments will also not ordinarily require a review until the third anniversary.

15. An interim review of earnings replacement can be requested at any time from the worker, the employer or by the Earnings Replacement Division.

16. Workers will be personally interviewed and their input sought before an earnings replacement amount is established. Greater consultation and input will result.

17. The Earnings Replacement Division will meet with workers in various locations in the Province.

18. The Earnings Replacement Division will meet with any worker upon request.

This 18-point program, combined with the general direction recommended by the Committee of Review, will address the concerns associated with the issue of estimating earnings replacement.[76]

On December 11, 1992, the board issued a supplement to this directive.

The purpose of this directive is to clarify the circumstances in which a worker is to be afforded an interview before setting a rate of payment based on his or her estimated earning capacity.

Interviews by the Earnings Replacement Division will take place in the following Circumstances:

1. Where the worker is unemployed, but is estimated to be capable of earning.

[76] *"Earnings Replacement Policy"*, pp. 3 - 5, Board Directive 16/88, June 28, 1988.

2. Where the worker is employed, but is estimated to be capable of earning at a rate greater than his or her actual earnings.

Interviews will be unnecessary in three circumstances only:

1. Where the worker is considered to be capable of working in the same job or occupation that he or she was working in at the time of injury.

2. Where the worker has been unable to return to his or her pre-injury occupation but is working in an alternate occupation and the board is paying the full difference between the earnings of the positions.

3. Where an interview is impracticable owing to geographical distance, the worker's state of health, or some other valid cause. Approval of the Director of Claims will be required in these cases.

Where the worker appeals a decision of the Earnings Replacement Division concerning an estimation of earning capacity, an interview is always to be offered by the Appeals Committee.[77]

The new policy did not endure. On May 9, 1994, the Earnings Replacement Division was disbanded and individual Client Service Representatives (CSRs) became responsible for each claim, including interviewing workers. The policy was not repealed and continues to be published as board policy.

A practical consequence of this change is that workers receiving long term earnings replacement lost their familiar pathway into the board. The Earnings Replacement Officers were the face and contact with the board for workers, regardless of the issue, because a relationship was established over the years. Today the contact, like the annual review, is with the CSR *du jour*.

A central policy question is whether the individual or the program will bear the risk of the prediction being inaccurate. Over the decades, there has been constant tension over whether the board is determining future wage loss in a way that unduly transfers the risk to the worker.

Should provincial or local average wage rates be used? Should older workers be expected to seek re-employment? To what extent should the current or likely local employment situation be considered? To what extent should individual characteristics, such as age, personality, communication skills, IQ, literacy, numeracy, language skills, education, location of residency and so on, be considered?

To better prepare the worker and lessen the risk, should vocational rehabilitation be provided to the injured worker? Should a final determination be made without

[77] *"Estimating Loss of Earnings Capacity"*, Board Directive 34/92, December 11, 1992.

personal face to face discussion between a board decision-maker and the worker and his or her family? How can it be assured the board will use its discretion with "intelligence and compassion"?[78]

Decisions about future earning expectations are decisions about individuals finding reasonably available, if not actually available, suitable employment. The inquiry must be highly individualized. The decision must be tailored to comfortably fit each individual.

By their nature, these can become controversial decisions if they are not soundly made in a process that explains and includes the worker and his or her family. Individuals and their families will challenge the process used, the principles applied and the conclusions. They may dispute a decision estimating and incorporating maximum future earnings. They may consider the expectations upon which the estimation is based to be unrealistic. They may dispute decisions relying on post-injury employment which is qualitatively different than pre-injury employment because it is full-time or part-time or shift work or unskilled or too skilled or involves working alone or working with a team or with the public and so on.

Skilled heavy mechanics do not see themselves working as parking attendants or computer technicians. A labourer may not agree he or she is capable of becoming an equipment operator, warehouse supervisor, shuttle or courtesy driver, telemarketer, gas station attendant, school bus driver or other occupation. The retraining obligations expected by the board may be more than the individual worker is able or willing to give. The attendant duty to mitigate expected by the board may be more than the individual finds reasonable.

The board's decision will most often place a burden on the individual and reduce costs for the program. To succeed on appeal, individuals must show what they cannot do, or what is not available to them, or what is inappropriate to expect from them. To succeed, they must emphasize the extent of their injury and personal limitations, not their strengths.

This is not a healthy exercise for them or their families, especially if the process takes months or years. When they do emphasize their limitations, they may be labelled as whiners. If they do not succeed, and sometimes when they do, they will feel further victimized.

Vocational Services Representatives make long term estimated earnings capacity reports and recommendations for consideration by CSRs, who make the final decision.[79] Not all of the board's guidelines to be applied in adjudicating suitable employment are published. For example:

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[78] *Report of the Workers' Compensation Act Review Committee, June 1982*, p. 6.
[79] *Client Service Representative Training Manual*, Module 16, Class 1.1.1, "Estimating Section 69."

> Employment within a 25 mile radius of a client's home is considered to be within reasonable reach. However, a broader geographical area is considered if a client was regularly employed further away from home prior to the injury.[80]

There is no administrative or policy requirement that the worker see or agree with the factual statements in the report or that the worker's views with respect to the recommendations be recorded in the report. As a matter of routine, they are not! The number of reports each year in the last decade was as follows:

Figure 7: Estimated Earnings Capacity Reports (1990 - 1999)

1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
296	258	220	183	111	196	171	235	164	170

There is no practice of the CSR meeting with each worker before making the decision about the worker's future earning capability.[81] If the CSR disagrees with the recommendation, the matter may be referred to his or her manager who may or may not discuss the situation with the Manager of Vocational Services. All of this occurs without the worker's knowledge.

The determination may be that the injured worker is currently capable of earning his or her pre-injury wage. In which case, there will be no ongoing compensation. The estimation of future earnings may be on an escalating scale, with complete return to pre-injury earnings estimated any number of years in the future. In this case, there will be a decreasing wage loss payment.

One of the safeguards against erroneous administrative decisions about future loss is the ability of an injured worker to have his or her claim reopened and reconsidered because of a change in circumstances. This may occur because of a deterioration of health or some other changed circumstance. Since 1995, the incidence of claim reopenings within six months of file closure has been increasing. This may be a signal of increasing discontent with the initial decision-making.

Figure 8: Reopenings Within Six Months (1995 - 1999)

1995	1996	1997	1998	1999
4,792	4,504	4,910	5,942	6,482

Theoretically, on-going review will reduce the risk of unfairness for the injured worker because of an incorrect or inaccurate decision. The board must review compensation at the request of a worker, dependant or employer. It may undertake a review on its own initiative.[82] There is no legislated automatic review to examine the

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[80] *Client Service Representative Training Manual*, Module 16, Class 18.2.3, ¶ 5 "Adjudication Criteria."
[81] s. 21.1(1)(d).
[82] s. 104(1).

adequacy of the estimation or if the worker's efforts were effective in lessening the loss of earnings to the extent estimated. The onus rests with the worker to return to the board if his or her actual earnings are less than estimated.

In November, 1995, following the abolishment of the Earnings Replacement Division, two senior employees, assisted by an external chartered accountant, were assigned to review and report on all 1995 claims for which an earnings replacement entitlement was established. This included 1995 claims whether there was, or was not, a corresponding capitalization in 1995 for future payments. In March 1996, this committee reported that only 43 of 153 claims (28.1%) for which there had been capitalization were, in its opinion, "appropriate." The remaining 110 were "inappropriate" because:

1. capitalization should not have occurred because, in time, an estimation would reduce or eliminate wage loss;
2. the wage base was incorrect; or
3. the estimation of earning was "insufficient."

The finding was that 48 claims should be decapitalized ($3.6 million) with no later capitalization; 38 should be decapitalized ($5.7 million), but likely recapitalized at some other amount later; and 24, although "inappropriate", should not be altered because the amount was too low ($2.4 million). In no claim was the estimation found to be too low.[83] The committee made several recommendations.

Currently, the CSR's manager must review all earning replacement estimations resulting in capitalization, but not when there is no capitalization. Earnings verification has been incorporated into the annual review of earnings replacement payments.

The board undertook verification of earnings in August 1996 for over 1800 recipients of benefits in 1995. To compel individuals to provide up to date 1995 information, the board threatened suspension or termination benefits and obtained consent to access to personal Income Tax Returns through Revenue Canada. The 1995 verification was completed in March 1998.
As a result of the project, 20 workers or dependants had their compensation suspended – a total of $12,072 per month. For 88 workers or dependants, benefits were reduced a total of $27,367 per month. The total annual reduction was $473,268. The board created 30 overpayments for $157,340. In no case was the benefit amount increased.

The board adopted a published earnings annual or triennial verification policy in August 1998. Its administration rests with the CSRs.[84]

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[83] T.P. Brown, A.A. Colibaba and W. R. MacKenzie, C.A., *"Capitalization/E.R. Review Project"*, March 4, 1996.
[84] "Verification of Earnings", Policy No. 19/98, November 16, 1998.

The number of persons receiving long-term earnings replacement monthly payments since 1990 and the available details on new and discontinued payments each year is shown in the following table. The board was unable to supply details of the reasons for terminated payments. Presumably, most terminations occur at age 65, as the statute provides.

Figure 9: Earnings Replacement (1991 - 1999)

Earnings Replacement	1991	1992	1993	1994	1995	1996	1997	1998	1999
New	265	218	185	219	224	126	166	133	166
$ Increased (CPI)	n/a	n/a	n/a	n/a	n/a	79	115	149	140
$ Decreased	n/a	n/a	n/a	n/a	n/a	53	113	64	44
No Change	n/a	n/a	n/a	n/a	n/a	2	13	23	173
Terminated	n/a	220	0	324	169	174	66	176	138
Number at Dec 31	1757	1755	1940	1835	1890	1842	1942	1899	1927

Almost a third of the recipients live outside Saskatchewan

Figure 10: Earnings Replacement Recipients Outside Saskatchewan.

BC	ALTA	MAN	ONT	QUE	NB	NS	PEI	NFLD	YK	NWT	INTL	TOTAL
170	236	97	58	7	3	5	1	9	0	1	21	608

The board's overall administrative approach, in recent years, has moved away from specialized processes for individualized decision-making.

2.06 Administrative Decision-Making – Living Up To Expectations

The unfairness of the common law principles of assumption of risk, common employment and contributory negligence in dealing with workplace injuries led to a statutory workers' compensation program. Fair treatment of individual workers and employers is crucial for continued worker, employer and public confidence in, and support for, workers' compensation.

The board has been given a broad range of legislated and discretionary decision-making power over individual injured workers. It also has a broad discretion in making policy decisions which impact workers, the current cost of the program and, consequently, the assessments to be paid by employers.

The board establishes and rearranges classes and subclasses of industries with separate accounts for each.[85] The average cost of a group may lead to the board levying "any amount it considers just" on an employer whose cost experience is above the average.[86]

[85] ss. 121 - 122.
[86] s. 123.

The board sets the maximum assessable wage rate and assessments rates to pay for *compensation, expenses, the industrial safety* program and maintains reserves it considers necessary. The board may adopt a "system of merit rating" if it considers it proper to do so. The board has the power to set, assess and collect assessments.[87]

The board must maintain the Injury Fund so that future costs of current injuries are covered by current employers and future employers are not "unduly or unfairly burdened."[88] The board has broad discretion to invest money it holds in reserves for future payments.[89]

The final funding and investment related decisions in any year are dependent upon a range of complex actuarial, economic and risk assumptions the board is expected to regularly revisit.

As they do with all public institutions, people today demand more information, quicker responses, more complete explanations and increased service from the board. They have higher expectations and insist the expectations be met. People expect the institutions they deal with to change as quickly as they have to change in their work and private lives and as quickly as other institutions they regularly deal with. They neither trust, nor want to be told to trust, institutions. People expect to be able to challenge the decisions of others and to have an acceptable forum to hear their challenges.

In short, people demand a higher level of institutional accountability for individual and program decision-making than was acceptable in prior decades. When others have discretionary decision-making authority over their lives, people today expect the decisions to be principled, reasoned, well communicated and open to challenge.

The number, scope and significance of the discretionary decisions the board is empowered to make require the board to keep pace with the increasing expectations and demands of the community it serves. If it does not, the board will be increasingly challenged in the courts, by legislative officers, in the news media and in its daily encounters with individual workers, employers and their advocates. Their court of last resort to tell the board what to do is the minister, the government, or the legislature.

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[87] ss. 135 - 150; 152 - 160
[88] s. 118.
[89] s. 151.

3. GOVERNANCE AND ACCOUNTABILITY

The extent to which the workers' compensation program is equitable, efficient and effective (commonly accepted performance measures) depends largely on the motivation of the organization administering the program. In turn, the motivation is mainly a function of the governance and accountability system in place for the organization.

There is a relationship between governance and accountability in organizations. Governance must identify and adjudicate conflicts between participants in ways that best serve the organization's goals, not one group of participants. To do this, the governance structure must be independent. One consequence of independence is that the interests of individual participant groups become dependent on the goodwill of the governing group. Power and isolation are traits of independence.

When the governing principles are independence and goodwill, the interests of some may be overlooked or insufficiently recognized. Accountability mechanisms, such as representative membership in the governance group, seek to offset isolation, ensure goodwill and create a balance in the exercise of power.

The structure and processes directing an organization, charting its performance and reporting results to others constitute the governance of the organization.

Organizational accountability is setting goals against which performance is assessed, the methods of assessing performance against the goals and the consequences for failure. It involves knowing the organization's mandate, who is accountable to whom, what information is provided to enable performance assessment and the means to act when responsible persons fail.

Governance and accountability have immense importance for the performance of any organization, the confidence stakeholders have in the organization and whether it thrives or survives. Public sector governance and accountability for fulfilment of a legislated mandate and the resources entrusted to an organization are different and more complex than in the private sector.

One example of the difference is the role and relationship citizens have to the public organization. They want to actively participate. Unlike a private corporation, they cannot flee by simply selling their shares and investing in another organization. One dimension of the complexity is the role and relationship the public sector organization has with other public institutions – ministers, government departments, legislative officers and committees. and other agencies.

Governance is not just about roles, relationships and responsibilities or accountability. It is also a vehicle to improve and demonstrate organizational performance. Public sector governance happens in a political climate that has an

orientation toward a vague, undefined, but real, public interest and values and compliance with legislation.

3.01 Principles of Effective Governance

Six commonly accepted interdependent characteristics of effective governing bodies are

1. knowledge, ability and commitment to the responsibilities;
2. understanding their purpose and those they represent;
3. understanding the objectives and strategies of the organization;
4. understanding what constitutes reasonable information to govern and obtaining it;
5. once informed, prepared to act to ensure the organization's objectives are met and that performance is satisfactory; and
6. report on the organization's effectiveness to those they represent

In the 1990s much attention has been paid to what constitutes and contributes to effective governance.[90] The contribution the governing body makes to an organization is approving and monitoring the organization's mission, vision, values and strategy, monitoring management control, evaluating senior management, overseeing external communications and assessing its own effectiveness.[91]

3.02 Board Composition, Mandate and Information

The size, composition and process for selecting Board members are key aspects of effective governance and accountability. Ultimately, the Workers' Compensation Board is the Board members.[92] They are responsible for directing and controlling the organization and its performance.

Selection and recruitment of Board members is addressed by legislation.[93] Their orientation and training to fulfil their responsibilities is not. The board has a Board member orientation manual, which was prepared in April 1997.

Size must facilitate effective and efficient decision-making. Too many members may make decision-making unwieldy. Too few members may leave the Board with deficits in necessary skills and knowledge. The Board is, and always has been, three members.

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[90] See also *Corporate Governance in Crown Corporations and Other Public Enterprises* (1996). For private sector principles see *Report of the Toronto Stock Exchange Committee on Corporate Governance in Canada* (1994) and David S.R. Leighton and Donald H. Thain, *Making Boards Work: What directors must do to make Canadian Boards effective* (1997: Toronto, McGraw-Hill Ryerson Limited).

[91] Criteria of Control Board of the Canadian Institute of Chartered Accountants, *Guidance for Director Governance Processes for Control* (1995).

[92] ss. 13 and 2(1) "board."

[93] ss. 13 - 17.

The statute provides for three or five members. The chairperson is full-time. An even number of representative members are to be full-time.[94]

Succession planning for changes in Board members and smooth transitions is partially addressed in the legislation. The term of the chairperson may be one year longer than that of the other Board members.[95]

Over the decades, Board member tenure has been reduced from ten years to a maximum of five years for the chairperson and changed from "at the pleasure of the Lieutenant Governor in Council" for representative members to a fixed, maximum term of four years. If no replacement member is appointed at the end of the term of a member, the incumbent continues in office until the replacement is appointed. Members may be re-appointed after consultation with labour organizations and employer associations.[96]

There has been, but currently is not, a legislated provision addressing revocation of appointment. A clear statutory statement of the role and responsibilities of Board members would be a logical precondition for a statutory provision authorizing revocation of Board member appointments for cause.

The board is a small organization with 386 employees. It confronts all the complexity of any workers' compensation program administered by both larger and smaller boards across Canada. Representative Board members are selected from lists of names submitted from trade unions and employer associations. There is a limited pool of persons who are interested, competent and willing to accept this full-time appointment at an annual salary of $73,764 for a member and $107,076 for the chairperson. The board and public have been fortunate in having the commitment of such dedicated Board members as Norm Brown, Darlene Light and Stan Cameron.

It is the responsibility of the Board members to be the stewards of the purpose, mandate and goals of the workers' compensation program. Their personal duties as stewards are not expressed in the statute. There is no legislated duty of care for Board members. The commonly accepted duties for Board members are honesty, good faith, care, loyalty to the board, confidentiality, diligence, skill and prudence.

There are no legislated conflict of interest provisions or process or standard for evaluating Board members. The board has adopted a conflict of interest policy that applies to Board members and all employees.[97]

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[94] s. 13(1).
[95] s. 15.
[96] s. 15.
[97] *Saskatchewan Workers' Compensation Board Conflict of Interest Policy Effective May 16, 1996* published in WCB Employee Handbook, pp. 25 - 6.

A clear and common understanding by Board members of the board's mandate and their roles, responsibilities and relationships within the board and to those outside the board is crucial for good governance.

Good governance requires useful, high quality information. Board members require accurate and comprehensive information to make informed decisions about strategic and policy issues. Board members require reliable information to make informed reports about the board's operational performance. Is the board treating workers and their dependants in a fair and reasonable manner? Is it providing required medical aid, timely service, and quality adjudication and case management? Is it compensating workers fairly and maintaining a fair funding cost for employers? Board members require information to monitor administrative efficiency and financial performance (financial results, funding, return on investment, financial controls) and the board's compliance with the legislation and established standards of conduct.

The information should allow the Board to look forward and assess if the board has sound capacity for the short and longer term future – assets protected and risks managed, employee skills being developed, satisfactory working environment, major strategic initiatives.

To manage and be accountable for performance there must be performance measurement. Relevant performance information has to be timely, accurate, complete, balanced and cost effective to collect. Incomplete and unreliable information engenders suspicion and distrust. Currently, there are gaps in performance information. Non-financial performance information is less than complete, timely and reliable. Fragmented, incomplete and unreliable information is a barrier to the Board effectively governing each component and the overall workers' compensation program.

To achieve legislated and strategic objectives, the board often uses high profile operational, public education and information technology initiatives. The rationale, purpose, budget and expected impact or benefit of each major initiative should be publicly reported. An evaluation should be planned with the initiative and then conducted, reported and used to improve the board's performance. The results and the board's evaluation of an initiative in achieving its intended outcomes should be reported.

3.03 Provincial Government Role

The Legislative Assembly and executive government have a role in this state negotiated, publicly sponsored and legislatively sustained workplace compact. They enact the framework, appoint the Board members and hold the program accountable for achieving its goals within the context of the government's broader policy objectives. The provincial government acts through legislation and Board member selection, rather than direct intervention or involvement in the board's decision-making.

By deliberate legislative choice, the workers' compensation program is not administered as a department of government. The 1928 Royal Commission expressly rejected a state administered insurance scheme.

> The danger of such a system is that political bias, favoritism, or expediency may creep in and influence the conduct of those administering the Act rather than sound business principles which an independent tribunal would put into effect. It is best to avoid the possibility of such a danger by having an administration entirely independent of government control.[98]

Government exercises control and influence over the program by enacting and amending the statute and regulations; appointing the members of the Board and periodic Committees of Review; and receiving annual and mid-year reports from the board and periodic reports from the Committees of Review. As discussed below, the government directs the matters on which the board must report.

The provincial government can take a more direct role. It may make regulations "it considers necessary to carry out the purposes of the Act and to meet cases not provided for by this Act." It may make regulations "setting out guidelines for the making of decisions by the board." Such a regulation "supersedes any policy directive of the board that conflicts with it."[99]

The provincial government has final decision-making approval on certain board matters – the appointment of the board's auditor, purchase and lease of property, borrowing money.[100]

In traditional terms, the provincial government and responsible Minister are to leave the administration of the board to the Board members. The government and Minister are to be responsible for policy, not operations. This is a particularly important distinction to be respected in the adjudication of individual claims and issues involving individual employers when the board serves as a substitute for the courts and a tribunal for administrative justice.

The point of interaction between the board and the government is the relationship between the responsible Minister and the Board Chairperson. Their line of communications is central to the confidence the Minister has that the government will not be surprised by a politically embarrassing event or decision at the board. The Chairperson must be able to resist any undue Ministerial intervention in board

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[98] *Report of the Royal Commission Appointed to Enquire into Workmen's Compensation for Saskatchewan*, in *The Story of Workers' Compensation in Saskatchewan* (1997, SWCB), p. 136.

[99] s. 181.

[100] ss. 174, 176 and 120. The board owns or leases 93,324 sq. ft. or 8,669.5 sq. m (Head Office, Regina - 80,377 sq. ft (7467 sq.m); Saskatoon Branch Office - 9591 sq. ft (798 sq. m); Regina File Storage - 2400 sq. ft (223 sq. m); Regina Record Storage - 1456 sq. ft. (135 sq. m); Regina Cold Storage - 500 sq ft. (46.5 sq.m)

management. Often subtly, the tension between confidence and resistance will change with changes in Minister or Chairperson.

3.04 Office of the Worker's Advocate

The statute allows the Minister to employ a Worker's Advocate who may assist any worker or any dependent of a worker with a claim. The Office of the Worker's Advocate is expected to perform other duties, such as prepare and present a brief to the periodic Committee of Review and participate in educational programs.

The cost of the Office of the Worker's Advocate is part of the administration of the workers' compensation program the board must pay. Last year the cost was $561,000.

The Minister of Labour, not the board, is accountable for the effectiveness and efficiency of the Office. The employees in the Office are employees in the Department of Labour. The Minister is responsible to decide about the required resources for the Office and their use.

The Office helps to maintain the balance between autonomy and accountability in the relationship between the board and the Minister and the provincial government. Vigilant referral of workers to the Office of the Worker's Advocate keeps the Minister's office and the offices of other Executive Council members and elected members of the Legislative Assembly from engaging in debate and disputes with the board about the decisions it makes in individual cases.

The Office of the Worker's Advocate provides a valuable governance service by being available to assist workers. It attends to workers' needs and does not refer them to the Minister or their local member of the Legislative Assembly. The correlative is that the board must be open and accessible to the Office of the Worker's Advocate so that it can address its concerns directly to the board. The legislation acknowledges that the Office of the Worker's Advocate may decline to provide services in circumstances when a worker is not eligible for compensation or has failed to pursue a claim in a timely manner.[101]

Complaints about the board, which come to the Worker's Advocate, may involve board decisions, which are amenable to initiating an appeal, or they may be issues of communication between the worker and the board, service failings or administrative matters.

The performance of the Worker's Advocate reflects on the public perception of the performance of the board. Performance failure in the Office of the Worker's Advocate erodes fairness in the system and public confidence in the workers' compensation program. It is the Minister's responsibility to ensure this does not happen.

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[101] ss. 161; 2(u) "worker's advocate."

Case currency and the availability of timely advice and advocacy by the Worker's Advocate enhances board accountability. Demand for the services of the Worker's Advocate can be one indicator of workers' assessment of the board's performance.

Over the years, the Office of the Worker's Advocate has struggled to remain current with the demand for its services. In 1986, the Committee of Review reported on "unmanageable backlogs" of nine months undermining the intended role of the Worker's Advocate. It recommended a comprehensive review by the Department of Labour to reduce the backlog, ensure it does not recur and ensure continuing dialogue between the Worker's Advocate and the board. It hoped some of its other recommendations would reduce demand for the services of the Worker's Advocate.[102]

In 1996, the Committee of Review was again concerned with the Worker's Advocate and the backlog.[103] Workload, backlog and dialogue with the board continue to be administrative issues in the Office of the Worker's Advocate. The current backlog is sixteen months. In the past year, the Ombudsman has become involved in seeking to assist in a reduction of the backlog and mediating ongoing conflict and communications failure between the Office of the Worker's Advocate and the board.

A backlog in the Office of the Worker's Advocate builds pressures on others – Ministerial staff, MLAs, trade unions and other worker agencies – to intercede with the board on behalf of injured workers.

A backlog in the Office of the Worker's Advocate is a result of the difference between the number of new files begun and the number of files closed each day, week or month. Worker's Advocates cannot manage their caseloads by declining to pursue a matter that has some merit. If new files are not assigned because individual Worker's Advocates have a full caseload then the new files remain unassigned.

The experience has been that the number of new cases at the Office of the Worker's advocate has been relatively constant since 1993. However, the number closed each year has declined since 1995. Consequently, the number pending has increased. Not all of the pending files are assigned to a Worker's Advocate. Those that are not assigned because each Worker's Advocate has a full caseload sit in a backlog of unassigned files. These are assigned in the order in which they are opened as Worker's Advocates close files.

At the end of July 2000, there was a backlog of 561 unassigned files. The average intake of new files in the 1999-2000 fiscal year was 34.4 files per month. The unassigned backlog of 561 files represents the intake for 16.3 months. The service is in failure when workers are told they must wait sixteen months before a Worker's Advocate will be assigned to review their claim.

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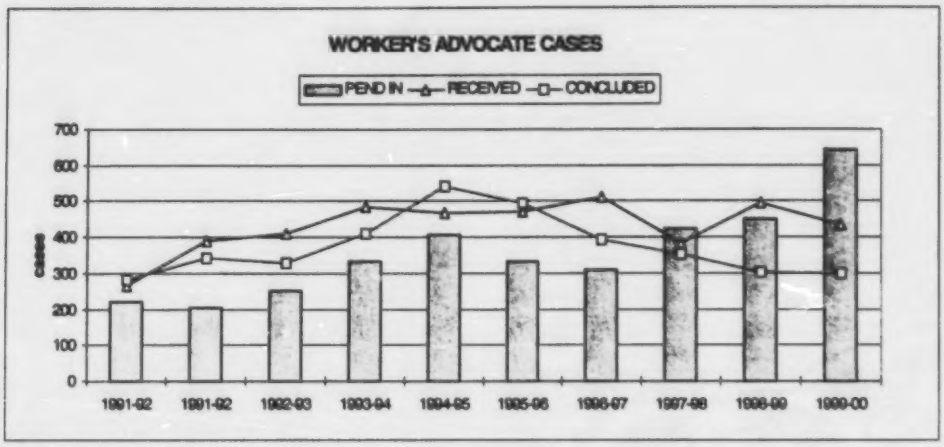
[102] *Report of the Workers' Compensation Act Committee of Review, 1986*, p. 69.
[103] *Report of the Saskatchewan Workers' Compensation Act Committee of Review, 1996*, pp. 70 - 72.

Figure 11: Worker's Advocate Cases Received, Concluded and Pending (1991 - 1999)



The Worker's Advocate office has a statutory right of access to board files on individual claims.[104] Most of the board's files are now electronic files. The Worker's Advocate does not have electronic access to board files. There is no reason why it should not. Any technical issue concerning remote access and security can be resolved with the will to do so.

Board performance can impact the workload of the Worker's Advocate. If files are not well developed by the board, the burden to do so may fall to the Worker's Advocate. If decisions favourable for workers are obtained on managerial review or appeal but not implemented in a timely manner, then there will be an increased burden on the Worker's Advocate. If there is an increased demand for the services of the Worker's Advocate, it may because of problems at the board. Increased complexity in the populations of cases at the Office of the Worker's advocate will prolong the time taken to conclude a case.

The Office of the Worker's Advocate has a unique window into the operations of the board. It may see recurring and repetitive complaints and failings by the board. It may differ with the board's interpretation or application of the statute. Some of these issues may be addressed through representation and discussion with the board. Currently, the board and the Worker's Advocate are having difficulty engaging in productive discussion. Some may be channelled into an appeal intended to be precedent setting even though the board does not rely on a decision precedent system. The Worker's Advocate may resort to judicial challenge to the board. This is not welcomed by the board.

[104] s. 161(5).

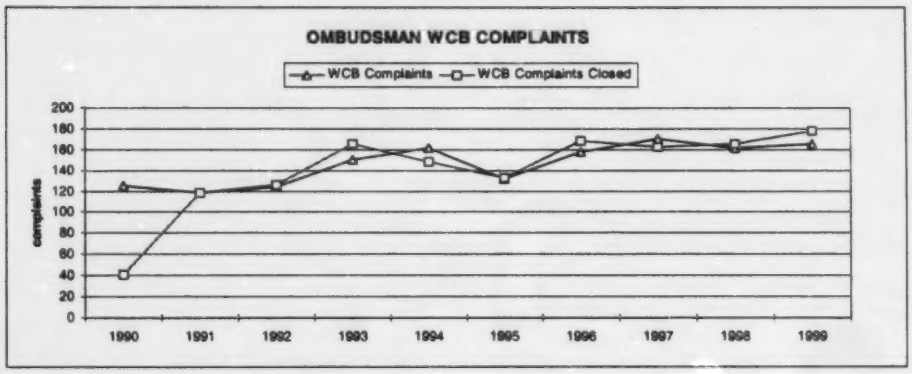
3.05 Ombudsman

The provincial Ombudsman is a Legislative Officer. The Ombudsman is not an adversarial advocate. It is a permanent institution of independent inquiry dedicated to promoting fairness.

Service failings at the board resulting in delayed and inconsistent decision-making generate complaints to the Ombudsman. Backlogs at the Office of the Worker's Advocate diminish its effectiveness as a remedy for individuals. The Ombudsman is often the last resort for individuals.

The board is consistently the agency about which the Ombudsman receives its fourth highest number of complaints. The view of the Ombudsman is that when in doubt the board should seek to help the worker or dependant and not use its overarching authority to refuse or terminate benefits.[105] The focus of the Ombudsman is individualized fairness for citizens.

Figure 12: Ombudsman WCB Complaints (1990 – 1999)



3.06 From Commissioner to Corporate Governance Model

The Saskatchewan legislation continues with the commissioner model of governance under which three or five Board members are responsible for the stewardship and management of the board and its mandate. They have final administrative and adjudicative decision-making.

The Board members are supported by an "executive director", who "shall be the Chief Administrative Officer" (CAO) of the board, and other staff. The Board members may delegate any of their powers and functions to the executive director and other staff.[106]

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[105] E.g., *Provincial Ombudsman Special Report June 2000*, p. 16.
[106] ss. 13 - 21; 2(g.1) "executive director."

From 1930 to 1984, the Board's designated executive director was the Board's Executive Secretary. In 1984, a General Manager was hired to share the CAO responsibilities with the Executive Secretary. In 1985, the positions became VP Adjudication and VP Administration. From 1986 to 1996, the Chairperson assumed the position of Chief Executive Officer and the duties of the CAO to co-ordinate the roles of the dual Executive Directors.

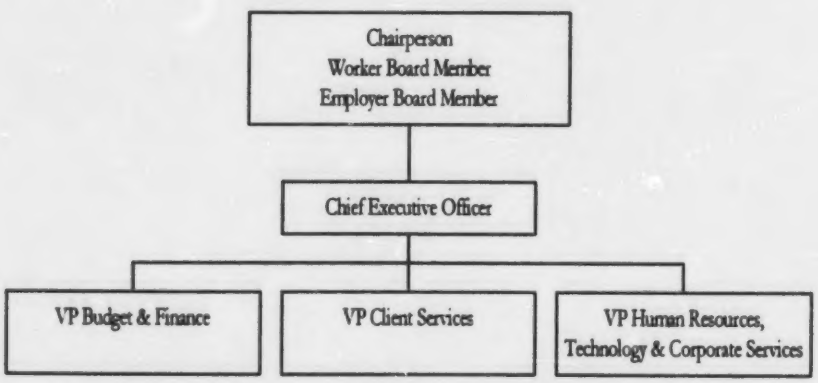
In 1994, the Board commissioned an operational review by Price Waterhouse. It recommended the Board adopt an administrative model with three vice-presidents (Client Services, Budgeting & Finance and Corporate Services), reporting to the Chairperson. This organizational structure was implemented.

Effective June 20, 1996, the Board took the small, but significant step, of establishing the position of Chief Executive Officer designated as Executive Director of the Board. The Chairperson reported that:

> In 1996 no single act more clearly marked the board's transition from internal change to organizational stability than the appointment of the Chief Executive Officer. This was more than a final step in organizational reform. It was also the key action that now leaves the Chairman and Board Members free to turn their attention to long-range planning for the future.[107]

Some of what the Chairperson would have previously reported was in the first CEO report in the board's annual report. The current structure is shown in organization chart.

Figure 13: Organization Chart



Governance and accountability under this new organizational structure requires clear definition of roles, responsibilities and relationships among the Chairperson, other

[107] *Saskatchewan Workers' Compensation Board Annual Report 1996*, p.4. This change is in large measure consistent with recommendation G1 in *Report of the Saskatchewan Workers' Compensation Act Committee of Review 1996*, p. 10 that focused on the independence of Board members from management of the board.

Board members, the Board members as a body (including the Chairperson), the CEO, senior management (including the CEO) and the Minister assigned responsibility for the administration of the statute. Each must understand who has the responsibility to prepare, recommend, review, approve, monitor, perform and report on what aspect of the board's activities. The board personnel do not![108]

There has evolved a working relationship, but there is not a fully shared understanding or agreement on the scope and limits of responsibility and accountability. The absence of a clear statement of role, relationships and responsibilities is a source of frustration for Board members and executives. There is confusion within each level of management about roles and responsibilities.

The board is in the process of defining a formal governance and accountability framework. It commissioned a study and has received a final report on its governance.[109] The consultants, Deloitte & Touche, have mapped the roles and responsibilities for the governance and management of the board as currently understood by the Board members, Chairperson and CEO.

Among other issues, the consultants have identified that further reflection and definition is required on Board relationships with the responsible Minister and the government. When does the Board inform the Minister? When does it consult the Minister? When does it ask for direction or approval?

3.07 Accountability Mechanisms

There is no single set of accountability mechanisms or elements of governance that can be prescribed for every organization. The ones currently in place, or sought to be put in place, at the board and some others are reviewed.

3.07.01 Financial Reporting

Financial integrity of the Injury Fund and reserves for future payments to injured workers is essential for the purpose and credibility of the workers' compensation program. Reporting by the board is the major means by which workers, employers and the government can assess the financial integrity of the program.

Workers and their representatives want assurance that capital is being preserved for future medical aid costs and benefit payments. Employers want to understand the basis for current assessment rates and the adequacy of current reserves to insulate them from future rate shock. As a matter of law and politics, the government knows

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[108] An explanation to board employees was given by the Chairperson. See Stan Cameron, "Notes for Remarks", WCB Staff Conference, October 7, 1997, p. 10.

[109] Deloitte & Touche, *Governance Framework for the Saskatchewan Workers' Compensation Board* (July 31, 2000)

it will inherit the short-term consequences of any major error or mismanagement.[110] If that does occur, it can require the board to make a supplementary assessment.[111]

Short-term rate shock is cushioned by the extent of reserves the board maintains and the recent legislative direction that rates are not to increase in a class of industry by more than 10.5% in one year without notice to the employers and in *The Saskatchewan Gazette*.[112]

The board has set targets for its reserves in its funding policy.[113] The board's reserves in dollars and as a percentage of (1) annual expenses, (2) annual revenue, (3) investment income, (4) book value of investments, (5) investments in equities and pooled funds, (6) cash paid in the year and (7) assessable payroll were at their highest level over the decade in 1998.

Figure 14: Year End Reserves (000s) (1990 - 1999)

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Disaster and Occupational Disease	12,463	12,463	12,463	12,463	12,463	12,463	12,463	19,300	20,740	22,264
Second Injury and Re-employment	5,675	5,675	5,675	5,675	5,675	5,675	5,675	4,800	5,185	5,566
Economic Stabilization	0	0	0	0	0	0	0	24,100	25,925	27,830
General	25,833	21,737	21,737	21,737	21,737	21,737	10,599	0	0	0
Operating	1,491	12,169	0	0	0	0	0	0	0	0
Future Benefits Administration	0	0	0	0	0	0	0	41,800	44,937	48,239
Contingency	0	0	0	0	0	0	0	0	23,000	0
Injury Fund	0	0	0	0	0	0	9,743	24,501	24,097	28,397
Total	45,462	52,044	39,875	39,875	39,875	39,875	38,480	114,501	143,884	132,296
Total Expenses	106,414	128,252	123,477	137,123	164,838	175,349	144,762	160,928	172,848	185,535
Reserves as % of Expenses	42.72%	40.58%	32.29%	29.08%	24.19%	22.74%	26.58%	71.15%	83.24%	71.31%
Total Revenue	125,587	134,095	144,626	138,732	152,197	172,182	200,997	236,949	197,473	201,705

The Economic Stabilization Reserve is intended to be used to smooth rates in any rate group. This reserve is 15% of expenditures. "The board will determine the maximum amount of fluctuation which can occur in the average premium rate before this reserve is accessed."[114] The amount has not been set.

At the end of 1999, there was $27.83 million in this reserve. The guideline for private sector insurers set by the Superintendent of Insurance is 7% of benefit liability. For the board this would be $41.44 million. It is commonly accepted that the extent of risk faced by the board does not warrant blind application of the guidelines set by the

[110] s. 119.
[111] s. 149.
[112] s. 135(4).
[113] Policy 04/98
[114] Policy 04/98, 5.

Superintendent of Insurance. The statutory direction to the board is to maintain a reserve equals "the total expenditures of the board for the immediately preceding calendar year."[115]

There is no uniform approach to establishing workers' compensation reserves across Canada. Some jurisdictions maintain reserves peculiar to their circumstances, such as the $20 million earthquake disaster reserve in British Columbia.

Figure 15: Comparison of 1999 Reserves in Fully-Funded Jurisdictions

	Accident or Injury Fund Reserve	Rate Stabilization Reserve	Occupational Disease Reserve	Future Benefit Reserve	Research (other) Reserve	Reserve Total	Fund plus Reserves
Yukon	64%	104%	26%	N/A	112%	242%	306%
British Columbia	27%	N/A	13%	14%	3.3%	30%	33%
Alberta	40%	17%	15%	N/A	N/A	32%	72%
Saskatchewan	15%	15%	12%	26%	3%	56%	71%
Manitoba	11%	32%	N/A	N/A	N/A	32%	43%
New Brunswick	36%	-	-	-	-	-	36%

(Percentage of total or actual expenditures of fully-funded jurisdictions)

Workers' compensation financial issues are complex. Deciding today how much money will be required to pay all future medical aid costs and compensation benefits to currently injured workers and surviving spouses and dependants is definitely not an exact science.

To enable good decision-making, the board must collect accurate information and maintain records that conform to accounting, actuarial and auditing standards. It must report the information in a comprehensible manner that conforms to accounting and public auditing standards and practices. The more rigorous the accounting and audit protocols and standards are, the greater the integrity of the reports and the greater the time and cost involved in maintaining records and preparing the reports.

The board must make sound actuarial assumptions and change them from time to time to reflect the current best guess of future events. The legislation may be changed. The administration of the program may change. The extent of utilization and the cost of medical aid and vocational rehabilitation services may change. The duration of wage loss payments may increase and so on. Economic, demographic and other assumptions are critical to projecting future liabilities.

The margin of uncertainty the actuary and accountants will accept will affect the rigour with which the financial statements must be prepared. It will affect whether actuaries and accountants will give their professional certificates. For example, the board uses current expenditure data to estimate future expected expenditures. With this common approach, the estimate will not be exact in the short-term but much

[115] s. 118(2).

more reliable in the long-term. What margin of probability variation will reasonably satisfy the users of the report and be considered material by the auditors?

Currently, the board's actuaries are satisfied with a variation of ±$20million. The Provincial Auditor believes it should be ±$2million. These are narrow professional differences considering that the carrying amount of the board's investments at the end of 1999 was $785,875,000 while its fair market value was determined to be $937,031,000 – a difference of $151,156,000.

The discount rate applied by the board is a key example of the type of assumption the board must make. The discount rate is the assumed net rate of return on investment. Future benefits for currently injured workers and their spouses and dependants will increase with inflation as expressed by the Consumer Price Index (CPI). The capital the board holds to invest will make a rate of return above the CPI. The difference between the two is the discount rate or the rate at which current reserves may be discounted without compromising the availability of capital to pay future costs.

To arrive at a discount rate, the board assumes a nominal rate of return on investment and a future CPI rate. The difference between the two is the discount rate. Currently, the range acceptable to actuaries is between 3% and 4.5%. The amount a workers' compensation board chooses will often reflect its current funding policy more than its clairvoyance.

As of December 31, 1999, the board changed the discount rate for 2000 from 4.75% to 4.25% and from 4% to 3.5% for the future after the year 2000. This lowering of the discount rate added $11.864 million to the board's projected liabilities. In arriving at this rate, the board assumed a nominal rate of return of 7% after investment expenses and a 2.75% CPI in 2000 and 3.5% CPI after 2000. By comparison, the rates used by other Canadian boards for the year 1999 are as follows:

Figure 16: 1999 Canadian WCB Net Discount Rates

BC	Alta	Sask	Man	Ont	Que	NB	NS	PEI	Nfld	YK	NWT
2.31%	3.5%	3.5%	4%	4%	3.5%	3.5%	3.5%	3.75%	3.5%	3%	3%

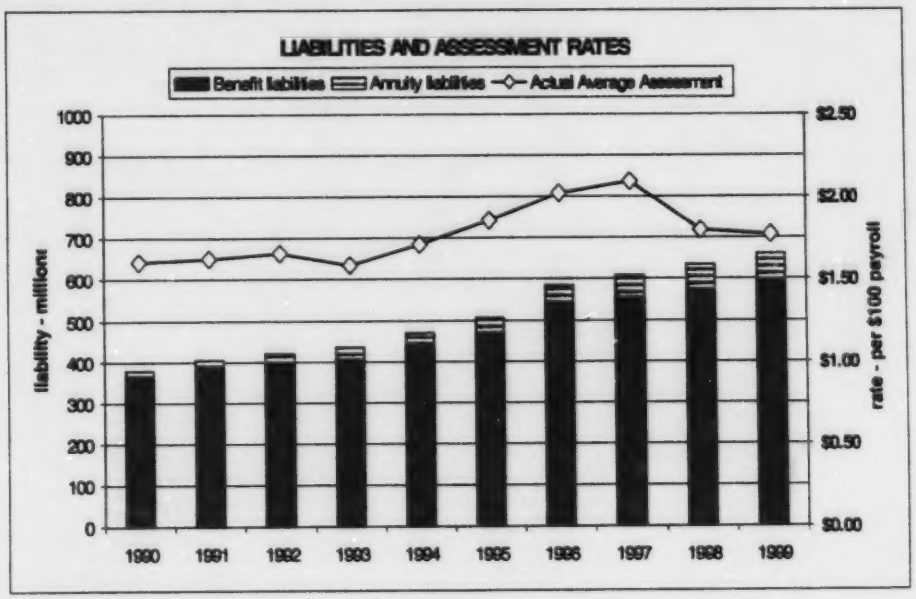
The discount rate for investment purposes is not the only change that will affect the projections for future liabilities. Compensation paid to injured workers is 90% of net wages. If federal and provincial income taxes are reduced, the 90% net amount will increase. As of December 31, 1999, the board made an allowance for current and future income tax rate changes. The actuary advised that an amount up to 6% would be acceptable. The board decided on 2%. This added $7.7 million to the board's projected liabilities.

Changes in the future estimates of medical aid costs reduced projected liabilities at December 31, 1999, by $5.651 million. Changes in assumptions about wellness

recovery rates increased liabilities by $4.024 million. Because board early intervention initiatives since 1996 tend to delay determination of earnings replacement awards compared to previous experience, an additional $3.19 million was added to projected liabilities. Another $2.4 million was added because modified return to work programs were implemented in August 1996. The board's change to the independence allowance policy in January 1999 added $7.83 million to the projected liabilities. Legislated changes to dependant allowances added $1.784 million.[116] There are other contingent liabilities that have been identified, but not valued (e.g., changes in CPP disability benefits).

There was a steep increase in benefit liabilities between 1993 and 1996, which drove assessments rate increases, before a return to a slower growth trend.

Figure 17: Liabilities and Actual Average Assessment Rates (1990 - 1999)



In 1994, the board had an operating loss. The accumulated surplus, represented by the Reserves and Injury Fund, was reduced. The accumulated surplus had risen from $4 million in 1986 to $61 million in 1993 and fallen to $50 million at the end of 1995. Assessment rates were raised in 1995. The average assessment rate had risen from $1.48 per $100 of assessable payroll in 1986 to $1.63 in 1991 and to $1.87 in 1995. Further increases were announced for 1996 following discovery of a need to make significant revisions to actuary projections.

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[116] Watson Wyatt, *Actuarial Valuation of the Liabilities of the Workers' Compensation Board, Saskatchewan*, June 28, 2000.

Employer representatives convinced the government to intervene in the board's rate setting for 1996. The government appointed an actuarial consultant to undertake a review. The consultant agreed with some of the board's reclassification of employers to minimize cross subsidies between industries. He specifically agreed with the change that produced the much publicized 567% increase for one employer. He said:

> The continued use of the "up to 567%" by the media and other persons shows they do not understand the complexities of WCB classification or either do not practice investigative reporting or are blatantly using it for their own purposes.[117]

He did not agree with the board's decision to depart from past practice of having a limit on maximum annual changes in assessment rates. The maximum annual rate increase had varied between 20% and 50% between 1988 and 1995. The board was proposing a 186% increase for one employer group – from $13.80 to $23.50 per $100 of assessable payroll. The consultant recommended a 10.5% increase for rates over $0.10. This limit reduced rates for many industry groups and reduced projected assessment revenue by $11.4 million – from $155.4 to $144 million.

The consultant disagreed with the board's approach to industry group debt reduction because he questioned the accuracy of the industry fund balances. He found the assessment rate setting approach used by the board for many years to be flawed and recommended that the board adopt an actuarially sound model. He agreed with the board's decision to move closer to a revenue neutral merit and surcharge system.

The board accepted all the recommendations and changed both its method and process for rate setting. The direct impacts were that rate increases were capped and the debt recovery program was delayed. Provincial government intervention had directly influenced the board's policy, practice and decision-making.

The Provincial Auditor, or another auditor appointed by the Lieutenant Governor in Council, must audit the board's accounts.[118] The Provincial Auditor has a responsibility to "examine all accounts related to public money."[119] Before 1988, the provincial Auditor had audited the board directly. In 1988, the Executive Council appointed KPMG Peat Marwick Thorne as the board's auditor.

In 1996, the Minister of Labour informed the Department of Finance that the board could not be designated subject to Treasury Board orders and directives under the *Financial Administration Act, 1993* because the board is not a "public agency" as defined in that statute. Consequently, the board considered the Treasury Board directive to comply with the Task Force on Roles, Responsibilities and Duties of Auditors did not apply to it.

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[117] Bruce L. Neville, "Review of the Saskatchewan Workers' Compensation Board's 1996 Assessment Rates and Assessment Rate Process - Final Report", January 31, 1996, p. 6.
[118] s. 174.
[119] *The Provincial Auditor Act*, s. 11(1).

In his 1996 Spring Report, the Provincial Auditor reported that the board's financial statements were reliable, but he had been denied necessary information and explanations to comment on financial management practices.[120] The Provincial Auditor was seeking any interim reports in 1994 that alerted senior board management to the impending loss. The board directed its auditors not to supply the information on which they had concluded the board had adequate financial management practices. The information was eventually given to the Provincial Auditor in March 1996. He recommended that the government direct the board to adopt the Task Force recommendations and co-operate with his office. Until that happened, the Provincial Auditor stated he would audit the board directly.

In his 1996 Fall Report, the Provincial Auditor concluded the board had not complied with *The Workers' Compensation Act, 1979* by allowing several employer groups to have deficits for more than one year. It recommended the board "should adjust its rate setting process and practices to comply with the law or seek appropriate changes to the law."[121] He made several other recommendations including publishing a comparison of actual results against those planned and providing an annual list to the Legislative Assembly of persons who receive "public money" in the fiscal year. The Provincial Auditor decided it could not rely on the board's external auditor to conclude the board had adequate financial management practices in 1994.

The legislature's Standing Committee on Public Accounts (PAC) considered the 1996 Fall Report on May 6, 1997. The board questioned the authority of the Provincial Auditor to audit the board and the Committee's jurisdiction to call the board before it for questioning. The Committee adjourned to obtain legal opinions.[122] The Legislative Counsel & Law Clerk gave the Committee an opinion that the Provincial Auditor had jurisdiction to audit the board. Counsel for the Provincial Auditor had the same opinion. The board had an opinion from outside counsel from September 1993 that the Provincial Auditor had "authority to examine the accounts of the board."

The Saskatchewan Department of Justice's opinion was that "as long as another auditor is appointed by the Lieutenant Governor in Council as the auditor of the accounts of the board pursuant to section 174 of *The Workers' Compensation Act, 1979*, there would be no basis for the Provincial Auditor to do an audit of, or conduct additional audit work in relation to, the accounts of the board." At the same time, the Committee could review the Provincial Auditor's report. The Provincial Auditor disagreed with Saskatchewan Justice[123] and reported again on the matter in its 1997

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120 *Provincial Auditor Saskatchewan, 1996 Spring Report, p.* 387.

121 *Provincial Auditor Saskatchewan, 1996 Fall Report, p.* 36.

122 www.legassembly.sk.ca/legassembly/committees/970506PA-min.htm

123 *Supplementary Report by the Provincial Auditor to the Standing Committee on Public Accounts Regarding the Workers' Compensation Board*, July 23, 1997.

Fall Report.[124] On February 17, 1998 the PAC resolved that both the Provincial Auditor and it had jurisdiction over the board.[125]

In his 1998 Spring Report, the Provincial Auditor reported that the board's 1996 annual report did not "clearly set out WCB's objectives (e.g., the specific results WCB wants to achieve given its goals and priorities and when it wants to achieve them)." There was little discussion and analysis and no comparison of key performance indicators and targets against actual results. The Provincial Auditor again recommended the board "should publish a list of persons, other than injured workers, who receive money from it and the amounts the persons received following the PAC's current minimum disclosure amounts; or WCB should discuss different public disclosure requirements with the PAC."[126] The 1996 Committee of Review disagreed. It determined the privacy of injured workers was directed by the statute.[127]

In his 1999 Spring Report, the Provincial Auditor was critical of the board's 1997 financial statements. The board did not record a reduction of revenue by $61 million, the full amount of rebates, and did not record as a liability a declared and promised, but unpaid, rebate in the amount of $38 million. Had it done so, it would not have had sufficient funds to transfer to its reserves the $23 million contingency for anticipated costs for survivor benefits to be paid to spouses who remarried prior to 1985.

The Provincial Auditor was critical that the board recorded $23 million as "if this rebate was a return on investment (dividend) to the owners (employers) because it thinks the net assets held by the WCB are held in trust for employers and therefore any surplus accrues to employers."[128] The Provincial Auditor did not agree.

> We think the Legislative Assembly has directed the WCB to hold its net assets for the benefits of both workers and employers. ... For these reasons, we think the workers' compensation program is not a trust arrangement. Also, we think the employers are not the owners of the net assets held by the WCB.[129]

The Provincial Auditor believes the board should follow the Canadian Institute of Chartered Accounts practices for public sector agencies.

The board changed external auditors in 1998. The Provincial Auditor was critical that the board's 1998 annual report did not disclose the fact that the 1997 and 1998 comparative figures were prepared by different auditors. There were other concerns and criticisms the Provincial Auditor had with the financial statements.

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[124] *Provincial Auditor Saskatchewan, 1997 Fall Report Volume 2*, pp.309ff.
[125] www.legassembly.sk.ca/committees/Public_Accounts/980217pa.htm
[126] *Provincial Auditor Saskatchewan, 1998 Spring Report*, pp. 15 - 20.
[127] *Report of the Saskatchewan Workers' Compensation Act Committee of Review 1996*, p. 16.
[128] *Provincial Auditor Saskatchewan, 1999 Spring Report*, pp. 22.
[129] *Provincial Auditor Saskatchewan, 1999 Spring Report*, pp. 23.

By the time of his 1999 Fall Report, the Provincial Auditor had learned that the board's payment of the $38 million was intended to be discretionary and contingent on future financial performance. Therefore, it was appropriate that it was not recorded as a liability.

The Provincial Auditor learned in July 1999 that the board had made additional assessments on employers in the amount of $5 million that were not recorded in the 1998 financial statements and not yet verified to the satisfaction of the Provincial Auditor. The amount was later established to be $8.9 million. This was part of the board's five year (1997-2001) Industry Fund debt repayment program, introduced at the time of the new actuarial based rate setting, to make the debt/surplus programs revenue neutral. As a consequence, the Provincial Auditor found the 1998 financial statements "not reliable." He continued to recommend the board achieve compliance with other public sector standards.[130]

The board revised its 1998 financial statements. The 1998 WCB annual report stated the Injury Fund to be $24.097 million. It was restated as $19.339 million.[131] A significant area of restatement was a revision to the employer assessment income. The original statement was that the board has retained $146.415 million. The restatement was $141.657 million.

Figure 18: Restated 1998 Employer Assessment Income

1998	Original	Restated
Assessments	$157,735,000	$157,735,000
Debt Amortization	$0	$5,931,000
Surplus Amortization	$0	– $10,689,000
Merit rebates	– $14,331,000	– $14,331,000
Surcharge penalty	$3,258,000	$3,258,000
Government of Canada Fee	$1,686,000	$1,686,000
Safety Associations	$1,933,000	$1,933,000
Total	$146,415,000	$141,657,000

Using a similar approach, the actual employer assessment and investment components of income are shown in the following table. The assessment revenue is adjusted to deduct the money transferred to the safety associations and the surplus rebates to arrive at a net assessment amount paid to and retained by the board. Employer net assessments have decreased dramatically in the past two years. Correspondingly, the percentage of the board's income derived from investments has increased to almost fifty percent.

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130 *Provincial Auditor Saskatchewan, 1999 Fall Report*, pp. 269 - 79.

131 Compare *Saskatchewan Workers' Compensation Board Annual Report 1998*, p. 30 and *Saskatchewan Workers' Compensation Board Annual Report*, p. 38.

Figure 19: Income Profile (1990 - 1999)

Income Profile ($000)	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Assessments Collected	$104,240	$109,715	$122,631	$107,748	$121,556	$137,908	$154,517	$179,286	$157,735	$154,733
Merit Rebate	-$9,157	-$8,196	-$8,304	-$8,506	-$9,139	-$8,876	-$11,393	-$12,436	-$14,331	-$13,843
Surplus Rebate	$0	$0	$0	$0	$0	$0	$0	$0	-$23,000	-$36,000
Debt Amortization	$0	$0	$0	$0	$0	$0	$0	$0	$5,931	$5,194
Surplus Amortization	$0	$0	$0	$0	$0	$0	$0	$0	-$10,689	-$9,179,
Government of Canada	$1,540	$1,558	$1,689	$1,665	$1,758	$2,526	$3,418	$2,855	$3,258	$4,448
Surcharge Penalty	$498	$845	$1,054	$1,331	$1,638	$1,607	$1,605	$1,828	$1,686	$2,379
Safety Associations	-$718	-$739	-$859	-$939	-$903	-$1,641	-$1,359	-$1,655	-$1,9330	-$2,233
Net Assessments	$96,403	$103,183	$116,211	$101,299	$114,910	$131,524	$146,788	$169,878	$118,657	$105,499
Investment Income	$29,184	$30,912	$28,41	$37,433	$37,287	$40,658	$54,209	$67,071	$78,816	$96,206
Income	$125,587	$134,095	$144,626	$138,732	$152,197	$172,182	$200,997	$236,949	$197,473	$201,705
Investment Income as %	23.24%	23.05%	19.65%	26.98%	24.50%	23.61%	26.97%	28.31%	39.91%	47.70%

The sources of the board's investment income by asset class for 1995 to 1999 are set out below. Prior to 1995, the board's investment transactions were manually recorded. The only information tracked by asset class was the asset values. The asset source of income was not recorded. In 1995, the board purchased software that enables it to collect this information.

Figure 20: Investment Income by Asset Class (1995 –1999)

Investment Income ($000)	1995	1996	1997	1998	1999
Cash & Short-term Securities	$3,088	$2,674	$2,172	$3,649	$2,529
Bonds & Other Fixed-term Securities	$17,517	$22,300	$22,709	$25,007	$21,487
Equities and Pooled Funds	$19,794	$29,581	$43,276	$50,531	$72,471
Mortgages	$363	$256	$326	$310	$283
Real Estate	$446	$302	$161	$1,138	$1,369
Other	$94	$94	$59	$92	$126
Total	$41,302	$55,207	$68,703	$80,727	$98,265
Expenses	$644	$998	$1,632	$1,911	$2,059
Net Investment Income	$40,658	$54,209	$67,071	$78,816	$96,206

Because of the increase in investment income, the cost of workers' compensation to current employers has dramatically decreased in the last two years. Net retained assessment revenue from employers in 1999 was roughly what it was in 1991 ($105.5 million vs. $103.1 million) – down from $170 million in 1997.

The actual average assessment rate was $1.54 per $100 of assessable payroll in 1991. It rose to $2.09 in 1997. Because of investment income and an increased assessable

payroll, the actual average assessment rate was down to $1.21 in 1999. Employer assessments paid only 52.3% of the workers' compensation costs in 1999. In prior years, the current employers' share was around 75%.

The board's 1999 financial statements are more detailed and the Provincial Auditor concluded they "are reliable," but he continues to exercise close scrutiny over the board.[132] The oversight of the Provincial Auditor has contributed to complete, accurate and transparent financial reporting.

3.07.02 Statement of Board Duties

The statute does not have a statement of its principles or the policies to be implemented or objectives to be achieved. A statement of the duties of the board is set out in section 21.1(1).

> The board shall:
>
> (a) treat workers and their dependants in a fair and reasonable manner;
> (b) arrange to provide any medical aid or treatment that may be required in the circumstances as a result of injuries to workers;
> (c) wherever appropriate, arrange to provide rehabilitation to workers or surviving dependent spouses; and
> (d) consult and co-operate with workers and surviving dependent spouses in the development of rehabilitation plans intended to return workers or dependent spouses to positions of independence in suitable productive employment; and
> (e) consult and co-operate with the Occupational Health and Safety Division on matters relating to the health and safety of workers and self-employed persons.

This statement of duties provides a direction to the board on the things it must do. There are other provisions of the statute that tell the board how it must act and what it must do. It must receive approval from the Lieutenant Governor in Council before it leases or purchases real property or constructs or alters buildings it uses.[133] It must give notice and consult before making an assessment increase above 10.5%.[134] It may be, but has not been, assigned other duties in addition to administering the statute.[135]

3.07.03 Strategic Planning and Performance Management

Strategy directs organizational performance. A strategic plan is the commitment to undertake one set of actions rather another set to produce successful organizational performance. Having a strategic plan does not ensure successful performance, but in most organizations a strategic plan is necessary to achieve successful performance.

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[132] *Provincial Auditor Saskatchewan, 2000 Spring Report*, pp. 71 - 76.
[133] s. 176.
[134] s. 135(4).
[135] s. 179.

The creation, implementation and monitoring of a strategic plan is a key means by which Board members direct the organization and fulfil part of their governance role.

Strategic management involves:

(1) developing a vision of where the organization needs to be headed and establishing a mission;
(2) converting the mission into specific performance objectives;
(3) crafting a strategy to achieve the targeted performance;
(4) implementing and executing the strategy efficiently and effectively; and
(5) evaluating performance, reviewing and initiating any corrective adjustments.

The first three set direction. The last two are action-driven administrative tasks dependent on having an organization capable to successfully carry out the strategy; budgeting that puts resources into critical activities; motivating employees to energetically pursue strategic objectives; and knowing and rewarding achievement of targeted results.

In 1992 the board's mission statement was "To protect workers and employer's against the result of work injury." It had been adopted in the 1980s with these goals:

- To deliver fair and timely service to injured workers and employers.
- To develop our human and other resources.
- To provide a fully funded, efficient and effective workers' compensation system
- To communicate and promote our understanding of workers' compensation.

The board embraced a set of values – integrity, sensitivity, courtesy, accountability, teamwork and efficiency. The 1992 Committee of Review introduced its report as follows:

> There is overall support for the basic system of workers' compensation. The majority of the submissions made during public hearings called for changes in the interpretation and administration of the Act. The recommendations in this Report have therefore been designed to bring about necessary changes in administrative structure and procedure while preserving intact the basic principles of the system which include:
>
> - protection of workers from loss of income resulting from work related injuries regardless of fault;
>
> - protection of employers from court actions by injured workers; and
>
> - maintenance, through contributions by employers, of an accident fund sufficient to fully fund all liabilities and administered by a statutory board that represents the interests of both employers and workers.

> Representations made to the Committee during public hearings showed a clear consensus that the ultimate objective of workers' compensation should be the return of injured workers to a position of independence by re-establishing them in suitable productive employment.[136]

After the first complete change in Board membership in twenty years in April 1993, the board undertook a fresh look at its mission. In June, 1994,an external organizational review reported that the board did not have a formal strategic planning process and there was "uncertainty" about the board's "priorities and resource allocations."[137] It recommended that:

> A formal strategic planning process should be undertaken to ensure a clear focus for the WCB. The strategic plan should consider both short- and long-term initiatives, and should prioritize these initiatives. Such a plan would ensure coordinated departmental decisions and provide the framework for all of the WCB's initiatives."

As a consequence of this review, the Board reported for 1994 that it had reassigned the duties of the existing executive team and was:

- "hiring executives with broad external experience and providing them with clear mandates for reorganization and reform";
- "systematically implementing a multi-year game plan for step-by-step redirection of operating procedures, priorities and processes." and
- "identifying major long-term issues to be tackled over the next several years."[138]

In 1995 the Board reported it had laid "the final cornerstones of the new foundation that had to be built to create a modern structure out of a 65-year-old institution." It was time "to raise the roof beam of a new structure – a compensation system for the year 2000 and beyond."[139]

The Board committed for 1995 to work "with formal external review processes and stakeholder consultations to develop a strategic plan for the long-term future of the compensation system."[140] For 1996, it reported that hiring a full-time CEO left the Board members "free to turn their attention to long-range strategic planning."

> Planning during the last four years was aimed primarily at immediate reform and innovation within the WCB. However, that shorter-range focus for a revitalized organization has always been intended to build the foundation for longer-range planning for the future.

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[136] *A Report of the Workers' Compensation Act Review Committee (1992)*, p. 1.
[137] Price Waterhouse, "Operational Review: Report to the Chairman and the Board, Phase II", June 1994, p. 11.
[138] *Saskatchewan Workers' Compensation Board 1994 Annual Report*, p. 5.
[139] *Saskatchewan Workers' Compensation Board 1995 Annual Report*, p. 2.
[140] *Saskatchewan Workers' Compensation Board 1995 Annual Report*, p. 6.

> Forward-looking strategic planning is therefore the natural outgrowth of the plans that have been developed and delivered from 1993 to 1996. Evidence of this new direction is the 1996 release of "Strategic Directions," a discussion paper on planning that links the search for a long-term, stable system with the recent developments that have already been introduced.
>
> Planning is perhaps the fundamental component to maintaining stability. With major reforms in place, and with the results of internal and external reviews before us, it is now critical for the WCB and its stakeholders to build a single, long-term vision for the compensation system. This vision must maintain the five Meredith principles of workers' compensation - the fundamental principles that we have been emphasizing during the last four years:
>
> - compensation without fault;
> - security of payment;
> - collective liability for employers;
> - administration and adjudication by an independent board; and
> - exclusive jurisdiction.
>
> Principle-based, visionary planning will be a major priority of the board for the year ahead. [141]

In a 1996 "Strategic Directions" document, the board listed the strategic visions and corresponding initiatives of the board from 1993 to 1996. It was followed in 1997 by priority setting at the senior level in 1997. The new CEO under the new organizational structure had established new priorities for management and was "charging all management with responsibility to enhance performance in every one of the six performance areas" – policy review and development, statistical analysis and reporting, communications, human resources, information technology services, and customer services.[142]

In 1997 the Board members set nine strategic intents with accompanying critical success elements. In 1998, board staff identified 180 specific actions to accomplish the critical success elements. The resulting plan was published in "Strategic Planning: A Framework for Action." It states a new vision, mission and values (standards for actions and decisions) for the board.

> Vision: To lead in the provision of work injury insurance and services, committed to our principles, values, our staff and those we serve.
>
> Mission: Treating all with dignity, we will, in a fair, open, honest and professional manner:
>
> 1. Promote, preserve and apply the Meredith Principles.

[141] *Saskatchewan Workers' Compensation Board 1996 Annual Report*, p. 4.
[142] *Saskatchewan Workers' Compensation Board 1997 Annual Report*, pp. 6 - 7.

2. Maintain, enhance and be responsible for the WCB work injury insurance program on behalf of workers and employers, and with consideration of other stakeholders.
3. Continue to create and improve positive relationships with workers, employers and other stakeholders.
4. Expect and recognize individual and team contributions in our workplace.
5. Be accountable to workers and employers, and consider differing perspectives and interests.
6. Communicate our distinctive identity, benefits and values.

Values:

Dignity - those we serve, and those we work with, are treated with respect and consideration.

Fair - those we serve, and those we work with, are treated equally and without prejudice or bias.

Open - our programs and services are easily accessed and understood. Our decisions and actions are clear, appropriate and open to examination.

Honest - those we serve, and those we work with, are treated truthfully.

Professional - our services are delivered by skilled and competent employees, knowledgeable about the purpose and goals of the compensation system.[143]

The nine strategic intents were abbreviated as follows:

1. To anchor the organization around the Meredith Principles.
2. To manage autonomously, as a service-driven insurance plan.
3. To ensure stakeholder and strategic partner relationships are dynamic and managed.
4. To recognize that Board members make policy and work it into the organization through the office of the Chief Executive Officer.
5. To align individual employees with organizational values.
6. To proactively manage issues.
7. To be accountable to workers and employers, and to hear, respect and deal with differing views.
8. To ensure maximum individual contributions through employee relations built on trust, openness, and mutual respect.
9. To continuously improve our public image and communicate our unique identity.

[143] The mission, vision & values statements appear in the 1998 and 1999 annual reports.

A subtle, but significant, change was the description of the workers' compensation program as "work injury insurance" and the board as a "mutual insurance company, with any surplus returned to the injury fund which provides benefits to workers and employers."[144] The language of insurance had begun to appear in the 1996 annual report when the board referred to employer assessments as "premiums," not "assessments."[145] Chief Justice Meredith did not like the use of the term "premium." In 1913 he wrote: "What is levied by the board is not a premium but an assessment."[146]

In 1998 the board reported:

> In each work unit and program area, we are developing and applying the standards that are vital to our vision - providing an insurance program that ranks second to none whether compared to other provincial workers' compensation systems or to private insurers. We expect to be measured in this comparison by the excellence of our service, the comprehensiveness of our benefits, and the competitiveness of our rates.[147]

Performance measurement is essential to effective strategic implementation, management and reporting. The board reported in 1998:

> "We have begun the pursuit of performance management as a key component of accountability. These higher expectations began with Executive Management and will continue in 1999 by strengthening accountability standards, creating key performance objectives and improving our reporting on successes as we meet identified targets."[148]

In 1999, the board reported that implementation of 31 action plans linked to the overall strategic plan had begun.[149] One action to which the board committed was to create outcomes-based databases to monitor the appropriateness and effectiveness of the case management continuum.[150] It was reported to be ready to pilot in 1999.[151] In 2000, the status was reported as: "Pilot the definition of 'outcomes' and test data collection in Vocational Services as part of the ongoing development of an outcomes model for the claims management continuum."[152]

There were also seven short-term focused initiatives – (1) business process simplification; (2) information technology initiatives; (3) performance management; (4) balanced scorecard; (5) public image; (6) cultural change and (7) Y2K readiness.

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[144] *Strategic Planning: A Framework for Action*, p. 10.
[145] *Saskatchewan Workers' Compensation Board Annual Report 1996*, p. 25.
[146] Meredith Report in *The Story of Workers' Compensation in Saskatchewan* (1997, SWCB), p. 165.
[147] *Saskatchewan Workers' Compensation Board Annual Report 1998*, p. 10.
[148] *Saskatchewan Workers' Compensation Board Annual Report 1998*, p. 8.
[149] *Implementing the Strategic Plan: The 1999 Report*, p.6.
[150] *Strategic Planning: A Framework for Action*, p. 26.
[151] *Implementing the Strategic Plan: The 1999 Report*, p.12.
[152] *Implementing the Strategic Plan: The 2000 Report*, p.12 & 9.

Except for "public image", they relate to organizational capability and outcome measurement. The Y2K readiness was successfully completed. The other six are considered by the board to be "the most urgent areas where the WCB must act in order to achieve the vision, mission, values and strategies in our Strategic Plan."[153] The image campaign is to be focused on the board's mandate, programs and services and the social and economic role of workers' compensation. It is to consist of high-level profiles of the board and specific events for targeted audiences. Currently, the campaign has been placed on hold.

In 2000, a new initiative was announced – creating a corporate business planning cycle:

> "... that will foster sound strategic planning and sustain a constructive corporate culture. Characteristics of the planning cycle will include appropriate management and operational processes, critical and regular review focused on achieving industry leadership, disciplined implementation, and a means of turning corporate intelligence into corporate knowledge for continuous improvement."[154]

The intent is to select and implement a planning methodology, then to identify outcomes and roles and responsibilities in the cycle; schedule milestones; implement resource support; determine an annual planning calendar; and establish measurement. The corporate business planning cycle is still being developed.

The balanced scorecard is a measurement initiative. It arose from executive committee meetings in January 1999 and is intended to measure:

> "... the WCB's overall performance and reports results in an open and balanced way. Once in place, this initiative will measure trends in our performance results, for which the WCB can be held accountable. It complements 1998 action recommendations aimed at improving performance measures, communications with stakeholders and the general public, and reporting on measurable results"[155]

This management tool is intended to clarify, communicate and manage strategy. While retaining measurement of financial objectives, it is intended to balance them with objectives from other perspectives, such as customers and internal processes. It is intended to balance past measurement of financial performance with measurement of the drivers of future performance.[156]

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[153] *Report to the Minister Under Section 22.1(1) of the Regulations May, 2000*, p. 12.
[154] *Implementing the Strategic Plan: The 2000 Report*, p.6.
[155] *Implementing the Strategic Plan: The 1999 Report*, p.7.
[156] Robert S. Kaplan and David P. Norton, *Translating Strategy into Action The Balanced Scorecard* (Boston: Harvard Business School Press, 1996)

"Stretch targets" are recommended for a balanced scorecard, which should have a mix of outcome measures and performance drivers. For a balanced scorecard to be effective, there must be a clear understanding of what will enable results that are being measured in order to drive performance. Leading, ongoing measurements that allow managers to assess and adjust, rather than lagging measurements, are more useful in strategic and performance management.

A draft scorecard was developed with the assistance of Deloitte & Touche and revised by the CEO and vice-presidents in September 1999. Sixteen measures are to be tracked in five areas.[157]

Figure 21: Balanced Scorecard Measurements

Key Measurement Areas	Measures	Performance Indicators
People Effectiveness	Employee knowledge, skills and abilities	Measure employee knowledge, skills and abilities
	Constructive culture	Cultural audit results
	Congruence of values and behaviours	Customer feedback
Process Effectiveness	Return to employability	Claim closure and return to work statistics
	Income replacement	Time to first payment
	Underwriting	Accuracy and promptness of employer assessments
	Appeals	Time to process appeals
Customer Service	Workers' perspective	Worker service feedback
	Employers' perspective	Employer service feedback
	Strategic partners' perspective	Partner service feedback
Financial Integrity	Stability of rates	Rate changes
	Stability of benefits	Benefit changes
	Fully funded status	Liability funded
	Operational effectiveness	Cost effectiveness
Recognized Leadership	Competitiveness	Rate/benefit ratios
	Peer/industry recognition	Measure peer/industry recognition

The performance targets for each are intended to "stretch the organization."[158] The board's goal was "to produce the first comprehensive scorecard on WCB performance during 2000."[159] This may not be achieved.

There are numerous performance improvement programs – reengineering, customer-focused, just in time delivery, total quality management, employee empowerment and

[157] www.wcbsask.com/whatsnew
[158] *Implementing the Strategic Plan: The 2000 Report*, p.6.
[159] *Saskatchewan Workers' Compensation Board Annual Report 1999*, p. 12.

so on. There are benefits and limitations for each.[160] The key to their success is not knowing about them or what they can and cannot achieve, but implementing them. It is critical to know and overcome the barriers to turning knowledge into action in an organization.

Two researchers have recently concluded: "Measures and the measurement process, especially badly designed or unnecessarily complex systems, are among the biggest barriers to turning knowledge into action."[161] They conclude the balanced scorecard is often too complex, highly subjective in its implementation and often misses elements of performance critical to success that are hard to quantify.[162]

Regardless of the competing opinions on the merits of the balanced scorecard approach, it is commonly accepted that some measurement system is critical to effective management control and strategic planning.

To date, the exact measures, the targets, the methods for gathering measurement data for the board's performance measurement intentions and the means to deliver the results in a comprehensible and useful format have not been finally determined. There is much work to be done. Before there can be performance management, the managers in each work unit require approval of indicators and targets to guide development of their operational plans aligned with the scorecard and the strategic plan to which it is to be linked.

The board does not have a business plan to make its strategic intents operational. The planning cycle is not formalized. This year is only the second time the board will be planning for the next year before setting and finalizing its budget for the next year.

3.07.04 CEO and Executive Performance Evaluation

The CEO has established a performance management structure for employees. It seeks to set goals and standards, establish reporting and reviewing mechanisms, communicate with individuals about expectations and performance and support this with coaching and training.

The Board has not established key performance goals and objectives for the CEO or through the CEO for the three vice-presidents. There is no process for formal setting of expectations and periodic evaluation of their individual or collective performance. Similarly, this has not been done for directors and managers.

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[160] For two critical reviews of the successive waves of management theory with some consideration of their applicability to the public sector see - Eileen C. Shapiro, *Fad Surfing in the Boardroom: Reclaiming the Courage to Manage in the Age of Instant Answers* (1995: Addison-Wesley); John Micklethwait and Adrian Wooldridge, *The Witch Doctor: Making Sense of the Management Gurus* (1996: Random House).

[161] Jeffrey Pfeffer and Robert I. Sutton, *The Knowing-Doing Gap: How Smart Companies Turn Knowledge into Action* (Boston: Harvard Business School Press, 2000), p. 139.

[162] Pp. 147 - 153, 161.

3.07.05 Reporting to Government

Apart from isolated requirements to consult or obtain approval prior to taking action, the statute's principal on-going accountability mechanism for the board is reporting requirements.

The board submits and publishes an annual report to the Lieutenant Governor in Council that is tabled in the Legislative Assembly. The board must report transactions during the year and any "particulars the Lieutenant Governor in Council may prescribe." None has been prescribed. The report must contain details of investment activity during the previous year.[163] The 1973 Committee of Review observed that the annual report "... could be a very useful tool for the board if it made an effort to point out deficiencies in its programs rather than just outlining the functions that have worked well in the preceding year."[164]

Since 1999, the board must also submit a separate annual report to the Minister. Regulations[165] direct that it must contain information with respect to:

- financial and management practices
- annual statement of priorities
- policy changes implemented in the past year or proposed
- program changes implemented or proposed
- board's strategic plan
- board's management of matters arising from the annual meeting
- other matters requested by the Minister which may include any of the board's duties

The list is broad enough to include key performance measures or outcomes; measures of effectiveness of past initiatives; or effectiveness in fulfilling the board's mandate and duties, such as treating workers and their dependants in a fair and reasonable manner. The first annual report to the Minister was made on May 1, 2000. The board specifically requested the Minister to provide feedback to assist in preparing future reports. The Minister has not yet responded.

3.07.06 Direct Reporting to Interested Persons

Building on an earlier board initiative to hold public mid-year meetings,[166] the statute requires the board to hold one or more meetings a year at which it must provide "information with respect to its activities, policies and future plans" as directed by

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[163] ss. 175 and 151.
[164] *Report of the Task Force on Workers' Compensation in Saskatchewan*, March 1973, p. 71.
[165] s. 21.1(3) and *The Workers' Compensation General Regulations, 1985*, s. 22.1.
[166] *Saskatchewan Workers' Compensation Board 1995 Annual Report*, p. 13.

regulation. Regulations[167] prescribe that the board provides information about the following:

- annual statement of priorities
- policy changes implemented in the past year or proposed
- program changes implemented or proposed
- board's strategic and capital plan
- board's capital and operating budgets for the current and upcoming year
- other matters requested by the Minister
- any other matter the board determines

The board holds meetings each year in Regina and Saskatoon at which it distributes written information and opens the meeting to questions.

The fact that the board must report to the Minister on its management of matters arising from the annual meeting suggests the format of the meeting is intended to allow those attending to resolve that the board do certain things. The meetings have not evolved to include this degree of stakeholder participation.

3.07.07 Self-evaluation and Reporting

The board has no statement of governance practices. There is no structure and practice of regular Board member self-evaluation and reporting on the effectiveness of their governance.

3.07.08 Periodic Public Review

There is a legislated review requirement performed by a quadrennial statutory Committee of Review. The composition of the Committee, which "shall include equal representatives of employers and organized employees" is an ongoing affirmation of the historical origins and continuing "ownership" of the workers' compensation program. The workers' compensation program was fortunate to have continuity in the Committee's chair, Judge Alistair J. Muir, from 1973 to 1992.[168]

The Committee's mandate includes "administration" of the statute, which necessarily includes board performance.[169] Over the years, the proportion of the Committee of Review's recommendations that address board administration has increased.

In 1986, the Committee of Review recommended legislation requiring the board to report progress "toward implementing the recommendations of the present and

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[167] s. 21.1(4) and (5); *The Workers' Compensation General Regulations, 1985*, s. 22.2.
[168] Judge A. J. Muir, "The Review Process Under The Saskatchewan Workers' Compensation Act", *Meredith Memorial Lectures 1987 - 1991* (AWCBC), pp. 49 - 61.
[169] s. 162.

subsequent committees in so far as it is within the power of the board to implement such recommendations."[170] In June, 1996, the board responded to the 1992-93 Committee of Review report. The board responded in 1997 to the 1996 Committee of Review report.

Within the board, some managers have itemized, incorporated into their planning and tracked the status of Committee recommendations.

3.07.09 Internal Audit and Program Evaluation

Since mid-1996, the board has had an internal audit and program evaluation unit reporting to the CEO. Its mandate is:

1. To assist all levels of management in the effective discharge of their responsibilities by furnishing analysis, appraisal, recommendations, advice and information;
2. To promote efficient and effective work systems and procedures; and
3. To promote adequate financial, management and quality controls and reporting systems.

Internal audit is independent, objective review and assurance and consultation. These are specific kinds of evaluations.

Program evaluation is assessing the strengths and weaknesses of programs to improve their effectiveness. These are more general kinds of evaluation. The unit also investigates allegations of fraud.

The value of internal audit and program evaluation is that it should undertake thorough reviews, make convincing analysis and provide practical recommendations and helpful advice.

In making its reviews, the unit will look at resources, financial controls, work methods, quality control and results. The reviews may be a financial audit, a work methods analysis, a quality assurance review, a value-for-money audit, a program evaluation, or a comprehensive au 'it.

2.07.10 Quality Assurance

The board does not have a systemic method of providing quality control over individual employee decision-making and communication. The board recognizes there is a need for better oversight and improved individual access to the board to resolve complaints. The board reported to the Minister in May 2000 that:

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[170] *Report of the Workers' Compensation Act Review Committee*, 1986, p. 69.

> Year 2000 will see the establishment of a Fair Practices Office that will assist our clients with disputes and complaints by steering them through the process to the right place. In addition, the Fair Practices Office will investigate complaints and tabulate statistics that can point to the need for process and/or policy changes.[171]

In the past, quality control has been *ad hoc*. Effective May 1, 2000, the board has created three positions of Client Service Representative – Peer Review in its Client Services Department. The required qualification is three years as a Client Service Representative (CSR) in Client Services within the last five years. These positions do not have workers' claims assigned to them.

Their role is to perform file reviews and provide coaching and mentoring to other CSRs on difficult and complex cases. The full role in quality control is evolving. Initially it is to: "Perform monthly line file reviews, to include all files at 6 months, randomly on files over 2 years, unadjudicated claims over 4 weeks and others as required. Reviews will be documented and results provided to the CSR and the Manager."

3.07.11 Internal Review – Not Appeal

Workers and their dependants do not have a right to sue in court for compensation because of workplace injury or disease in a covered industry. All claims for compensation must be taken to the board.[172] The board has exclusive jurisdiction on "all matters and questions arising" under the statute. Its decisions are final and conclusive.[173] Over the decades, the courts have taken this legislative direction seriously and exercised great restraint when asked to review board decisions.[174]

The legislation provides no right of appeal for persons dissatisfied with a decision of the board. The board has a plenary power of review and reconsideration of its decisions.[175] There is a specific obligation on the board to review compensation payments to a worker or dependant spouse of a worker at the request of the worker, dependant spouse or employer.[176]

The 1982 Committee of Review commented on the distinction between internal review and appeal.

> More important than this, however, is the perception in many workers minds that appeals they make are doomed from the start. They are, in fact, going to the same people who made the initial decision. They do not see this

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[171] *Report to the Minister Under Section 22.1(1) of the Regulations May, 2000*, p. 12.
[172] ss. 116 - 168; 180; 185.
[173] s. 22.
[174] See *Pasiechnyk v. Saskatchewan (Workers' Compensation Board)* [1997] 2 S.C.R. 890; [1997] S.C.J. No. 74.
[175] ss. 21 and 22(3).
[176] s. 104(1).

as an appeal to an independent authority but rather, as another kick at the cat. This is a very dangerous feeling and one which, over time, could significantly erode the credibility of the board. The committee therefore recommends

> "That there be a clear distinction between the roles of adjudication and administration within the board."

This distinction is the primary basis we have utilized for the recommendations that follow. People must believe that their final appeal on a claim before the agency is an appeal to an independent tribunal. The present appeal structure does nothing to improve this situation.

At present, when any claim is refused, the individual involved must be notified of his right to appeal. This is both fair and reasonable. However, the members of the Board have for very sound reasons established a mechanism within the agency for internal review of all disputed claims. This mechanism, a review of the file and claim by a senior committee of the Claims Department, is often mistaken for an appeal.

This confusion is compounded because the board has not clearly distinguished between this internal review and "an appeal to the Board." It is our opinion that this problem is a symptom of a far larger problem. There must be a clear-cut and easily understood appeal mechanism that is separate from the day-to-day operations of the board. The first step in this process must be, we believe, a separation of these responsibilities among the staff reporting to the board. The committee therefore recommends

> "That the duties of the Executive Secretary of the Board be split in two. There should be both a Chief Administrative Officer and a Chief Adjudication Officer."

Both of these persons should report directly to the Board. They should be equal in status. The duties of the Administrative Officer should be to manage the board's operations. The duty of the Adjudication Officer shall be to advise the Board on adjudication matters and to ensure fair and open adjudication of all claims. Since the roles and responsibilities in terms of adjudication are presently less well-defined than those of the operations manager, the committee will dwell on these in greater detail.

Role Of The Chief Adjudication Officer

The board has no legislated appeal mechanism. They take the position that a file is never closed. A claim can be appealed at any time for any reason. Because they deal with injuries which change over time, which may become worse or better, this is the only reasonable approach the board can take.

This open appeal policy when combined with the lack of distinction between internal review and appeal to the Board often results in delays or confusions about appeals. These delays can best be eliminated if three steps

are taken. First, workers must be made aware of the internal review and appeal mechanism. Second, there must be a time limit between the period an application for appeal is made and the time the Board hears the appeal. Third, constant communication with the client must be maintained to be sure he understands the status of his appeal. All of these steps may require the active intervention of the Chief Adjudication Officer. It is therefore recommended

> "That the Chief Adjudication Officer be notified of all rejected or disputed claims."

It is further recommended

> "That when the claim is rejected or disputed a letter be forwarded to the worker explaining the two-tier appeals' process."

The internal review will be chaired by a person who reports to the Chief Adjudication Officer. Two other representatives of the agency, will be appointed to the review committee by the branches involved in the decision. When this internal review is completed the results will be forwarded to the Chief Adjudication Officer. He may do one of the following things:

1) If the decision favours the client, he shall so inform him.

2) If the decision does not favour the client he shall immediately institute the steps for an appeal to the Board and so inform the client.

All support staff required for proper adjudication would be responsible to the Chief Adjudication Officer and they shall be responsible for the establishment and maintenance of a list of "reasons for decisions."

When a decision on a particular case has policy offshoots the Chief Adjudication Officer will be responsible for advising the staff of the board, the Workers' Advocates and other interested groups.

The goal of our recommendations is to provide fair and open adjudication through a channel which is clearly separate from the operations of the board.[177]

A board publication, the Fact Sheet *How to have a WCB decision reviewed*, speaks of reviews and appeals. It is sent to workers to inform them of their avenues for review of a decision within the board.

In claims adjudication and administration, the front line decision maker, a Client Service Representative (CSR), may review and reconsider a decision at the request of a worker or employer. A decision to reverse a prior decision granting benefits under the statute must be reversed at the level the decision was made, or by a

[177] *Report of the Workers' Compensation Act Review Committee. 1982*, pp. 54 - 56.

manager or director.[178] The board does not maintain data on the number of requests or outcomes.

In a 1991 policy, if the original decision was based on best judgment or made on the basis of extending the benefit of the doubt to the worker, a subsequent contrary opinion by a member of the board's medical or claims staff would not justify reversing the original decision. Under a 1998 amendment to that policy, a decision based on a best judgement or made on the basis of extending benefit of the doubt may be reversed on the basis of "a subsequent contrary opinion by a member of the board's medical staff " regarding the relationship of medical issues to injury and/or employment" or a "subsequent contrary opinion on entitlement." A full written explanation is to be given to the worker, spouse or dependant.

Board Member Darlene Light explained that this policy

> ... removed any shred of uncertainty about whether or not the Members of the Board can review "any decision at any time."
>
> Just as important, this clarification also erases any doubt surrounding the ability of WCB staff or the Appeals Committee to alter an "improper and unreasonable" decision when the merit and justice of the case points in that direction.[179]

The manager of the work unit to which the CSR is assigned may be asked to review and change a decision of CSR. There is no record kept of how often this occurs or the outcomes.

The board has an "Appeals Committee" of six decision-makers, including the unit manager, reporting to the CEO. The original 1985 board order establishing the composition and mandate of the Appeals Committee has not been modified or published.[180] The published mandate of the Appeals Committee is contained in a 1996 policy and accompanying procedure.[181]

The 1985 mandate stipulates the composition of the Appeals Committee and that a quorum is two members of the Committee. Until mid-1994, two members reviewed each appeal. If they were unable to agree, a third member of the Committee reviewed the case. The two or three members constituting the quorum of the Committee signed their decisions.

From mid-1994 to May 1998 (except for November 1994 to April 1995), the practice was for a single member of the Committee to decide the appeal. In May

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[178] "Reversing Decisions", Policy 13/91, as amended by Policy 07/98 and Administrative Decision 03/2000.
[179] Opening Remarks to WCB Mid-Year Review August 4 and 5, 1999.
[180] "Creation of Appeals Committee", Board Order 5/85, September 4, 1985.
[181] "Appeals", Policy 03/96, February 21, 1996; "Appeals", Procedure for Policy 03/2000.

1998, the two-person quorum was abandoned by administrative decision. Since then, one member decides each review. It is not a comprehensive file review. The Committee members are directed, whenever possible, to focus only on the issue identified by the worker or employer. Often issues will require a comprehensive review of all aspects of the claim.

The expected practice on receipt of notice of an appeal is for the CSR and manager to review any new information on a priority basis before review by the Committee. Sometimes the Committee will ask that this be done before the application is formally recorded as an appeal. This year the Committee has begun maintaining data on how often this occurs and what number subsequently return to the Committee.

The focus of the process is to provide an informal, accessible, non-adversarial opportunity to have the file reviewed. The assigned Committee member may meet with an appealing worker or speak to the worker by telephone. This is not routinely, or as a matter of course, done in all cases. The final decision is communicated in writing.

A Committee member may obtain additional information from a medical officer of the board. The file may be returned to the CSR for review, further development of relevant information and reconsideration if the Committee member determines key information has not been obtained by the CSR.

Committee members do not perform a systemic quality control function. They decide individual cases by applying the statute, regulations, board policy and personal collections of unpublished documents that have guided the administration of the statute over the years. One example of an unpublished document is an April 29, 1985, memorandum from the Director of Claims of the day on calculating average weekly earnings under section 70.

The members of the Committee seek to apply existing policy. When not bound by a specific policy, the Committee members decide cases on the broader and more discretionary standard of "real merits and justice of the case."[182]

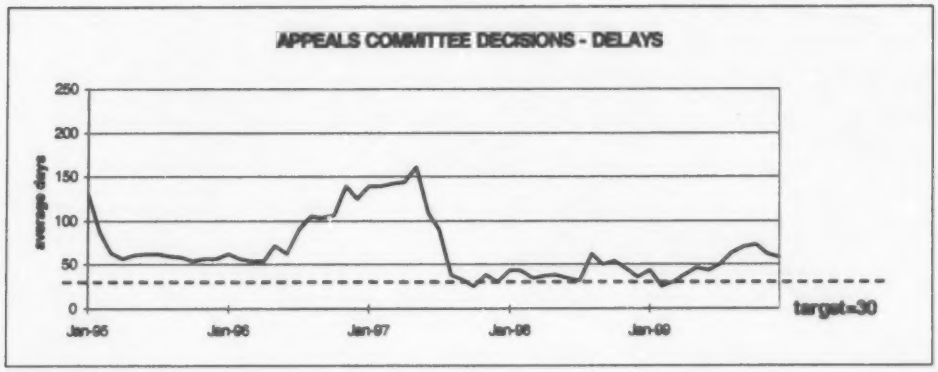
Committee members have extensive experience with the board. In the hierarchy of review, they serve a function above the front line CSR. They are expected to be superior communicators and have a proven track record in adjudication. The Committee functions more as a peer review group than a separate administrative appeal body operating under structures designed to ensure independence and rules designed to ensure adherence to procedural fairness.

The number of appeals to the Committee declined steadily from 1990 to 1994. At the end of 1995, the board reported that: "Backlogs were eliminated in our appeals

[182] s. 25(1).

system."[183] In June, 1996, the board reported that: "The Committee strives to provide a 30-day turnaround on appeals."[184]

Figure 22: Appeals Committee – Time to Render Decision (1995 – 1999)

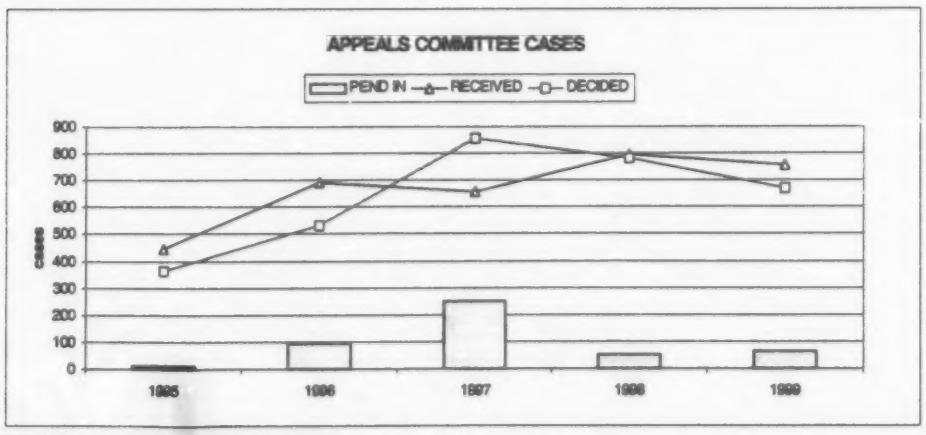


In 1996, the number of appeals to the Committee increased substantially from 447 in 1995 to 692 in 1996. The number has fluctuated between 656 and 795. At the same time, the percentage of appeals accepted or returned for further review, has increased.

Figure 23: Percent of Appeals Accepted (1995 –1999)

	1995	1996	1997	1998	1999	5 Year Total
Appeal Committee	16%	19%	25%	28%	33%	25%
Board	22%	14%	22%	24%	35%	24%
Aggregate	35%	30%	42%	45%	56%	43%

Figure 24: Appeals Committee – Cases Received, Decided, and Pending (1995-1999)



[183] *Saskatchewan Workers' Compensation Board Annual Report 1995*, p. 3.
[184] *Saskatchewan Workers' Compensation Board Response to 1992 Review Committee Report on the Workers' Compensation Act*, June 1996, p. 7.

In 1997 the board reported it had:

> "... installed computer software that enhances the interpretation of the appeal statistics currently being gathered by the Appeals Committee and Board. This new software will permit the board to make appeals data available on a regular basis."[185]

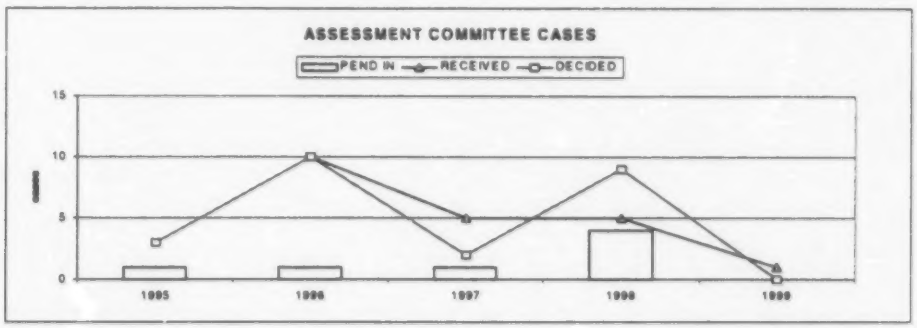
This data was to enable the board to identify systemic problems or concerns. An integrated and comprehensive appeals or review database does not exist. The Appeals Committee attempted to create a stand-alone system to integrate with the mainframe system. It has crashed and is not operational. The Board appeals are recorded in a separate database. The data for Committee and Board appeals uses different fields and definitions so that comparisons are laborious and of marginal value.

While the board's published Policy Manual makes reference to the Assessment Committee, its composition, quorum, method of operation and scope of authority as a review body is published in the Procedures Manual.[186] This three person Committee reviews decisions on

1. Industry groupings, payroll segregation, etc.
2. Penalties
3. Industry being subject to the Act
4. Claims having an assessment base
5. Executive officers carried on payroll
6. Retroactive assessment of new employers
7. Workers of contractors or principals

The next level of review from the Assessment Committee is to the Appeals Committee. The Assessment Committee receives very few appeals.

Figure 25: Assessment Cte. Cases Received, Decided and Pending (1995 - 1999)

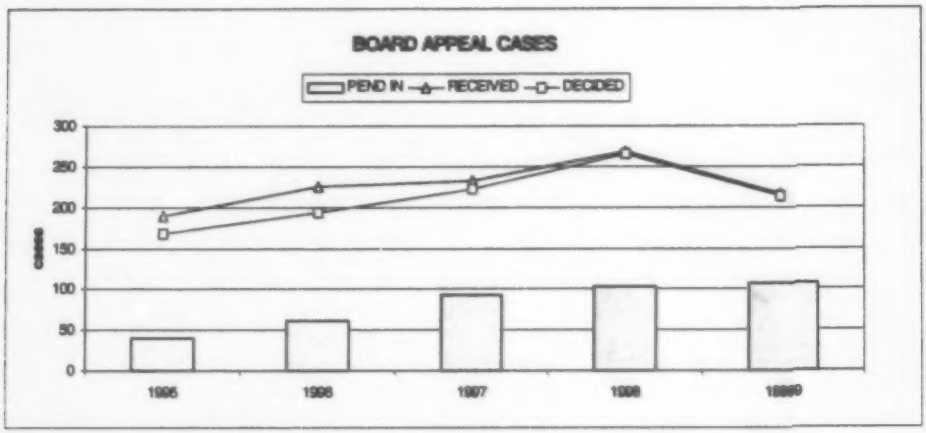


[185] *Saskatchewan Workers' Compensation Board Response to 1996 Committee of Review Report*, Section Four, recommendation A5, p. 9

[186] "Assessment Committee", Procedure 14/77, March 14, 1977.

The final level of review within the board is by the Board members acting under the same statutory provisions and policy as the review authority delegated to the Appeals and Assessment Committees. The Board members are supported by an Executive Assistant, three Assistants, a Secretary and dictation typists. This organizational unit reports administratively to the CEO.
Often the persons who serve as Assistants to the Board as vacation relief on Board Member appeals reviewing decisions of the Appeals Committee are persons who serve on the Appeals Committee.

Figure 26: Board Member Appeals Received, Decided and Pending (1995 - 1999)



As a matter of routine practice, the Chairperson does not participate in the determination of appeals. Facilitating consensus between workers and employers is one of the requirements for effective operation of the board. The current Chairperson believes that promoting consensus between the two representative members contributes to broader community consensus.

For the past five years, the Chairperson has participated in less than six appeals each year. In the past, the Chairperson was involved in most appeals involving an in-person hearing, but not those based on file review only.

Prior to presentation to the representative members, the files are reviewed and summarized by an Assistant to the Board. The summary and entire file are reviewed by each of the representative members. In 1997, the Board reported that:

> The file summary does not displace the Board's practice of considering the evidence and documentation in the appellant's file. The Board always reviews a file in sufficient detail to determine the question brought before them by the appellant.[187]

[187] *Saskatchewan Workers' Compensation Board Response to 1996 Committee of Review Report,*, Section Four, recommendation A4, p. 7.

The members may ask for further information or medical opinions from the board's medical officers. "When the Board considers an appeal, its practice is to discuss concerns and obtain all necessary additional information from departmental staff."[188] This information may not be shared with the worker before the final decision is made.

The Board members may schedule a hearing to meet with the worker and employer. The current practice is to schedule a hearing whenever one is requested. If the two representative members arrive at an agreed decision, the Executive Assistant or an Assistant to the Board drafts a decision for review and revision by the representative members.

If one of the representative members declares he or she has a conflict of interest in an individual case, the Chairperson will take his or her place on the review. If the representative members review a file and are unable to agree on the decision, the file will be summarized for, and reviewed by, the Chairperson. He will assist the representative members in reaching a three person unanimous decision or join with one of the representative members in reaching a majority decision. If disagreement were to happen after a hearing, which it has not, a new hearing would likely be convened. Written decisions do not disclose when a member dissents.

The Board members consider themselves less compelled to follow and apply the board's published policy than the Appeals Committee. As the final review authority within the workers' compensation system, the members will look to making a decision based on "the real merits and justice of the case." They do not necessarily "follow any legal precedent."[189] While the board does not negotiate entitlement with individual workers, at times, Board members will seek to reach a resolution that is acceptable to both the appellant and the Board. The Board has reported it is "... always exploring opportunities with stakeholders to incorporate mediation techniques."[190]

The time it takes from initiating a request for review to receiving and implementing a final decision is a critical measure of how workers and employers perceive the board and are serviced by the board. In January, 1998, the board reported to the Minister that significant gains had been made in reducing the time it takes to complete a review.

> Now Appeals Committee decisions are made within 20 days, while appeals to the Board members are resolved within 60 days, and often sooner. These

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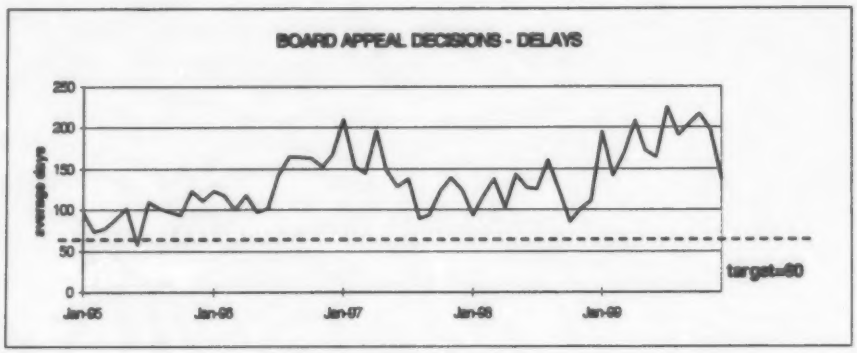
[188] *Saskatchewan Workers' Compensation Board Response to 1992 Review Committee Report on the Workers' Compensation Act*, p. 7.
[189] s. 25(1).
[190] *Saskatchewan Workers' Compensation Board Response to 1992 Review Committee Report on the Workers' Compensation Act*, p. 10.

are major improvements. Prompter rendering of appeal decisions is viewed as contributing to fewer complaints to members of the legislature.[191]

The board has had varied success in sustaining performance at its targets.

Figure 27: Board Member Appeals - Time to Render Decision (1995 - 1999)



The board does not keep records on the time it takes to implement a decision of the Appeals Committee, or Board Members allowing an appeal and varying a previous Board decision.

3.07.12 External Review – Medical Boards and Medical Review Panels

Differences of opinions may arise between health care professionals about medical questions. When such a difference arises between a medical officer of the board and another health care professional, the board has adopted a policy and procedure that convenes three health care professionals to resolve the difference of opinion. The decision to convene a "Medical Board" rests with the board's medical officer. It may be made at the request or without the participation of the worker's attending health care professional.[192] Worker attendance can be compelled as a board scheduled examination.[193] Since the policy was adopted in 1994, there have been virtually no Medical Boards.

After "exhausting his rights to a reconsideration or review of a decision by the board," a worker or dependant may "request the board to provide for a medical review panel" to conduct an examination. The written request must be accompanied by "a certificate of a physician or chiropractor stating: (a) that, in his opinion, there is a bona fide medical question to be determined; and (b) sufficient particulars of the question to define the matter at issue."[194]

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[191] *Renewing Workers' Compensation: A Report to the Minister of Labour on Major Accomplishments 1993-1997*, "Delivering Service" section.
[192] Policies 21/94 and 06/93.
[193] s. 57.
[194] ss. 60 and 2(p) "medical review panel."

A recurring complaint has been that, until recent months, the board has been overly technical in refusing to provide panels on the ground that the certificates do not provide "sufficient particulars of the question to define the matter at issue." The medical review panel of specialists sets its own procedures and makes decisions "binding upon the board and worker."[195]
Apart from the courts, this is the only external decision-maker whose decisions in individual cases bind the board. Board decisions denying a medical review panel have been the subject of judicial review. The Court of Appeal has observed that requests should not be "assessed in an overly technical way."[196]

Figure 28: Medical Review Panel Examinations (1990 - 1999)

Number of Examinations									
1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
6	8	4	13	7	10	17	8	11	12

3.07.13 Precedents

There is a universal expectation among persons interacting with an administrative tribunal deciding questions of entitlement and need that like cases are treated alike. Within the legislative framework, day-to-day decision-making is guided by policy and other subordinate directions and systems, such as automated wage loss calculation.

When infrequent, unusual, complex or novel questions arise, initial decision-makers often require either published guidance or a group of persons with special knowledge and experience to whom they can turn for advice and direction, or to whom they can refer the question for a decision.

With the introduction of the case management process in 1996, the Earnings Replacement Committee and Senior Claims Officer positions were abolished. As a result, there are fewer referral and reference sources for Client Service Representatives (CSRs). The current initiatives of separating initial adjudication from case management and establishing a peer group among the CSRs are movements back to the earlier distribution of responsibilities, specialized decision-making and front line support.

The statute requires the board to give written reasons for negative decisions on claims for compensation.[197] As is customary and expected from administrative agencies, board employees, from initial decision-makers to the Appeals Committee, routinely issue written decisions. Board members make written decisions after review and reconsideration of previous decisions on claims and other matters.

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[195] s. 64(2); See also Lee E. Slater, *Inter-Jurisdictional Comparison of Medical Review Panels* (SWCB, 1999).
[196] *Leslie v Saskatchewan (Workers' Compensation Board)* [1997] S.J. No. 586, ¶ 8 reversing [1996] S.J. No. 587, leave to appeal to SCC refused November 28, 1996. See also *Lyne v. Workers' Compensation Board* [1997] S.J. No. 310; *Sieben v Saskatchewan (Workers' Compensation Board)* [1998] S.J. No. 335.
[197] s. 49.

In 1986 the Committee of Review recommended that: "Major decisions by the board with respect to claims, as well as major Board orders or directives to its staff regarding policy or procedural matters should be made public."[198] Decisions in individual cases are not made public or generally circulated. There is no body of Board member decisions in individual cases generally available within the board. The accumulated experience of Board members in making appeals is not transmitted to their successors through written decisions. They are dependent upon board employees assisting them to acquaint them with past experience.

The board has been averse to creating a decision precedent approach to administration of the statute, which over time converts decisions in individual cases into rules of general application. Relying on section 25 of the statute, the board denied a lawyer's request for copies of prior decisions under a specific section of the statute.[199]

Despite this, prior Board decisions are among the materials in the resources used to train new employees.[200] Personal collections of prior decisions do circulate within the board, are referred to for guidance and are relied upon by managers and employees in their decision-making. There is no assurance these selected collections are either current or comprehensive.

3.07.14 Policy Directive or Rulemaking

The board is a public agency administering a statute that assigns extensive discretion to the board in interpreting and applying the statute. The board is insulated from most external reversal of its decisions by the courts, legislative officers and executive government.[201] The board is expected to be principled, fair, open and accountable when it makes authoritative decisions under the statute.

Board members direct and superintend the board's interpretation and day-to-day administration of the statute. The Lieutenant Governor in Council may make regulations necessary to carry out the purposes of the statute, meet cases not provided for in the statute and guide the making of decisions.[202]

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[198] *Report of the Workers' Compensation Act Review Committee*, 1986, p. 53.
[199] FOI Request 96-5F.
[200] E.g., CSR Training Module 7, Special Claim Development, Compensation to Dependants, Board decision on s. 85 of October 5, 1995.
[201] For an instance when the board was reviewed by the Saskatchewan Human Rights Commission see *Saskatchewan (Workers' Compensation Board) v Saskatchewan (Human Rights Commission)* [1999] S.J. No. 457. The statute and board policy are subject to review for compliance with the *Canadian Charter of Rights and Freedoms*. See *Zaretski v Saskatchewan (Workers' Compensation Board)* [1998] S.J. No. 319 (C.A.) dismissing appeal from [1997] S.J. No. 319 (Q.B.).
[202] s. 181. See also *The Workers' Compensation Act Exclusion Regulations*; *The Workers' Compensation General Regulations, 1985*.

Board employees exercise delegated authority to make individual decisions.[203] They must be trained and provided with a set of rules to guide them in their daily decision-making. Norms of conduct, such as conflict of interest guidelines, are set for them and published in an employee handbook.[204]

Discretion and delegated decision-making is a necessary feature of modern administration of justice. It is necessary to achieve just results in individual cases. The board uses policies, guidelines, training manuals, interpretive and information bulletins, internal practice directives, standard or form letters and various other written documents to guide and direct its employees in the exercise of discretion and decision-making. After the Board moved from being a "Management Board" to a "Policy Board" with its new organizational structure, it informed its employees that "Policy governance is all about governing by policy."[205]

Even if the printed resources provided to board employees are declared to be only guides, seasoned, as well as novice, inexperienced and insecure, initial decision-makers will apply them as authoritative interpretations of the statute. Employees usually do not believe they have the power or responsibility to deviate from these pronouncements from their employer and managers. The practical reality is that initial decision-makers will often refer only to these pronouncements, not the statute, in their daily decision-making. Their decisions may be reviewed for consistency and compliance with these pronouncements. Or parameters built into automated systems may limit or remove discretion.

It is the board's duty to "make its policy directives available to the public."[206] Published policy is a picture window into how the board leadership intends the statute to be administered from day-to-day. It explains and prepares workers, employers and their representatives and advocates for what can be expected. Published policy sets predictable norms and rules. Deviation from published policy will require careful and thorough explanation.

Published policy also serves as the focus of discussion between board decision-makers and individuals who disagree with a decision. They can disagree with the interpretation or application of the policy, but their focus is on the policy not the power one holds to finally decide. It is more difficult for decisions based on a reasoned application of published policy to be characterized as arbitrary or insensitive. It is more difficult to characterize a decision-maker applying published policy as arrogant or uncaring.

The board has published a policy manual, which is available in printed format and on the board's website. The board's policy manual explains that:

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[203] s. 21.
[204] *Saskatchewan Workers' Compensation Board Conflict of Interest Policy Effective May 16, 1996* published in Employee Handbook, pp. 25 - 6.
[205] Stan Cameron, "Notes for Remarks", WCB Staff Conference, October 7, 1997, p. 10.
[206] s. 21.1(2).

> On and after the effective date of this new manual [April 1, 1996], all ongoing adjudication of existing and/or new claims will be undertaken in a manner consistent with the new policy manual, subject to such exceptions as may be required by the justice and merits of each case.[207]

In addition, the board has a procedure manual that it does not make available to the public." The board created the manual to be relevant to the needs of the staff and to differentiate between board policies and board procedures."[208]

The board has a formal administrative process for internal initiation of a policy, administrative or procedure decision request. The board's two-person Corporate Policy and Program Development unit reporting to the CEO is the guardian of the process. Policy decision requests are channelled through the CEO to the Chairperson before final decision by the Board members. The requests are accompanied by analysis of several factors and proposed communications and evaluation plans. The process seeks interdepartmental, but not external, consultation. External consultation is the responsibility of the Board members.

> The WCB's policy development process can originate anywhere within the organization, or it can come from stakeholders.
>
> The WCB follows a formal, five-phase policy development process to ensure that staff across the organization are consulted and collaborate in the drafting and revision of policies. The five stages are: (a) initiate; (b) confirm; (c) develop; (d) implement; and (e) evaluate.[209]

The Corporate Policy and Program Development unit provides monthly reports to the CEO on the status of policy, administrative and executive decision items. A policy status report of all issues since the beginning of the process in July 1996 is included in Appendix E.

The statute does not define "policy directive." The board's policy manual distinguishes policy from practice. "Policies specify **what will be done** and sometimes by whom. Procedure specifies **how** a given policy will be implemented or done administratively." Policies "represent the primary operating authority under the Act and provide guidelines for WCB staff. Thus, staff are specifically directed to use policy where applicable, rather than re-interpret the legislation." It is the "day-to-day decision making framework and authority for all WCB employee decisions and actions."[210]

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[207] *The Workers' Compensation Board of Saskatchewan Policy Manual* (reprint Date March 1, 2000), face page.
[208] *The Workers' Compensation Board of Saskatchewan Procedures Manual* (reprint Date January 20, 2000), face page.
[209] Saskatchewan Workers' Compensation Board, *Report to the Minister Under Section 22.1(1) of the Regulations*, May, 200, p. 13.
[210] *The Workers' Compensation Board of Saskatchewan Policy Manual* (reprint Date March 1, 2000), Introduction.

Characterizing a directive as procedure rather than policy can be a fine art. For example, the mandate and work of the Assessment Committee is described in the Procedures Manual, not the Policy Manual.[211] This year the board elevated fifteen documents from the Procedure Manual to the Policy Manual.[212]
The board's early intervention approach to claims administration is a sequential, time-driven process. Its administration demonstrates some of the difficulties in deciding what should be treated as policy and what should be treated as procedure or simply administrative directive.

A key component to the administration of the early intervention approach is the *Expected Recovery Time Tables* prepared for the board in January 1996." The tables give an estimate of the average time required for workers to return to work after various work-related injuries and treatments." The *Tables* are treated as a resource material for internal use only. The document cautions: "Many factors, compensable and non-compensable, may influence recovery time. The tables, therefore, cannot suggest an appropriate period of time for which benefits should be paid or when benefits should be terminated."

The *Tables* of 120 injuries use five job descriptions – sedentary, light, medium, heavy and very heavy – from the United States Department of Labour dictionary of occupational titles to determine the expected recovery time. The complexity of the task of determining an individual's job classification is emphasized:

> In addition to pounds of force, there are other important factors which may help define an individual job classification. These factors include posture, biomechanics, size, shape, and manageability of the object being moved, as well as frequency of exertion. Each of these factors (and any other job specific requirements) should be considered when determining expected length of disability.[213]

The board's computer system generates a Review Early Intervention activity on each file for each CSR. It appears in the CSR's computer generated work queue at four weeks and twelve weeks. The nature of the injury, expected recovery time and identification of any risk factors for chronic disability guide the decision to refer the worker for secondary or tertiary assessment.[214]

Neither the *Expected Recovery Time Tables* nor the risk factors used by the board are published policy or published procedure. Both are more crucial for the decision-

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[211] See also "Employer Appeals", Fact Sheet, June 1999.
[212] *Board Policy Decisions Briefing Document For the 2000 Mid-Year Review.*
[213] *Expected Recovery Time Tables*, Prepared for Saskatchewan Workers' Compensation Board, January 1996, p. 2.
[214] See Table of Risk Factors in *Report of the Task Force on Early Intervention*, October 1995, p. 92; Appendix 1, "Risk factors for Chronic Disability", *Early Intervention Program: Manual for Secondary and Tertiary Treatment Centres*, Saskatchewan Workers' Compensation Board, 1999

making and on-going oversight of individual claims than some other materials that are published.
The board has adjudication guidelines on specific injuries. Some are set out in published policy. An example is stress claims.[215] In addition to the published policy, the board directs CSR inquiry through the unpublished stress questionnaire in Appendix D.

Questionnaires, such as the stress questionnaire contain policy decisions about what is and is not relevant to the board's inquiry. Other questionnaires have been developed by individual CSRs and are informally shared. Examples are questionnaires related to noise exposure, respiratory conditions and dermatitis.

Adjudication guidelines for some injuries draw on various sources that are not published by the board. The following is an example:

ADJUDICATION GUIDELINES ON VARIOUS TOPICS

Tennis Elbow

Caused by "Too frequent repetition of intense muscular activity involving strong hand grasps or dorsiflexion of the wrist."

Tennis Elbow: (Viikari Juntura, M.D. writing in Scandinavian Journal Work Environment Health 10 (1984) 443-449):

Present knowledge on the etiology of the tennis elbow syndrome is limited. Whether a scar in the common extensor tendon, granulomatous tissue in the subtendinous space, or neuritis of the radial nerve is the pathological change occurring in the tennis elbow syndrome, one could speculate that over exertion of the wrist and finger extensors could initiate and contribute. However, there are no well-based data on risk occupation.

Radiation: W.L.M. (Work Level Months) 60 months, accept. More malignant the lesion, more acceptable.

Radiation inquiries re WLMS (Work Level Months) contact Mr. Frost of Ottawa. If WLM is equivalent to 60, accept. Nature of malignant cell: more malignant more acceptable. Exposure to radiation leads to lung cancer in about *5* to 60 year post exposure. Lung cancer tends to develop in a short time in cigarette smokers.

Hearing Loss:

"Claims will be acceptable where evidence is provided of continuous work exposure for 2 years or more at 8 hours per day at 85 decibels or more, and when other evidence does not disclose any cause of hearing loss not related to work." B.C. WCB "Worker's Compensation Report" Volume 3-4.

[215] "Injury - Stress Claims", Policy 01/92 as amended 4/96.

F2

Heavy Metals:

Lead - less than 2.4 urn/litre. Mercury - less than u mol/litre. Arsenic - less than 400 u mol/litre (Provincial Lab Units).

Heart Claims:

Acceptable if claimant was doing something 1. Unusual 2. Excessive

Asbestosis:

Pleural plaques in asbestosis lead to malignancy in 15 - 60% of workers. Asbestosis leads to cancer in 20-35 years after exposure, occasionally within 10-14 years after exposure.

Past Board orders, which have not been included in the current policy or procedures manuals, have not been removed entirely from circulation. An example is Board order 30/87 giving guidelines on the payment of footwear cost under s. 106(1). It continues to be a reference source for initial decision-makers.

Board policy on suspension of benefits[216] makes reference to the board using the Public Service Commission standards. These are not published with the policy. The published procedure for suspension expands on the meaning of the policy. It speaks of "pressing necessity" being an exception to presumed suspension.[217] An internal, unpublished board document provides more detail.

SUSPENSION GUIDELINES

The following guidelines should be used in applying the new policy on suspension of benefits while a client is in a treatment or rehabilitation program.

1. Pressing Necessity
2.

We have obtained the Public Service Commission's policy on this. 4b of the procedure indicates that the PSC policies be used as a benchmark.** Based on the PSC policy, wage loss benefits would not be suspended in the following:

a) Death of immediate family member
   - date of death to day after funeral.

b) Death of extended family member
   - one day (day of funeral). If out-of-province travel is necessary then one additional day added to #1 or #2 above. If out-of-continental North America travel is needed then two additional days are added to #1 or #2 above.

[216] Policy 13/98.
[217] Procedure 13/98.

c) Attendance at funeral of non family member
- one day.

d) Sickness/grave illness in immediate family
- up to five days leave.

e) Other pressing necessity circumstances (adverse circumstances over which the individual has no control
- fire, flood, severe blizzard as examples) - up to two days leave.

f) Paternity leave
- one day/date of birth or adoption of child.

g) Family responsibilities
-elder/child/spousal care - up to five days
-assisting elder/child/spouse to medical appointment - up to one day usually
-school related responsibilities such as parent teacher interview
-graduation - up to one day
-wedding - one day
-Non-Christian holy days.

Advance notice on the above would be expected.

A maximum of five days per injured worker per year per claim is to be set as a ceiling on any combination of the above needs for Pressing necessity leave from treatment or rehabilitation program. Leave taken beyond five days per claim per year will result in suspension of benefits.

It would be expected that at some point, enhancement for GIGS system could be built to capture this. Meanwhile, the File Notes (F 13 from FDRIP3) should be used to keen track of the number of pressing necessity days used on a claim.

Suspension of wage loss benefits would be applied in the following type of situations or like situations, but is not limited to these situations (these would not be considered "good reasons" per the policy).
- to move residences
- to accommodate pets or farm animal care
- birthdays/family reunion
- cultural activities
- sporting events
- to attend school field trips as chaperone or parent helper

2. Minor Illness

Verification by a Health Care Professional will be needed prior to or by the day of the missed treatment where the absence is due to a minor illness - cold/flu, etc. Suitable verification could come from the injured worker's primary car giver, treatment team (augmented therapy centre) or the like. Verification according to policy will be needed in all cases or a suspension of wage loss benefits will apply.

This information to be included in the LCA or with the LCA if/when an insert is developed.

3. Transferring Costs to Second Injury and Reemployment Fund

Transfer of wage loss benefit costs to the Second Injury and Reemployment Fund will take place per *#3* of the procedure document:

> "For absences resulting from severe illness or disablement caused by conditions such as motor vehicle accident, heart attack, pneumonia,' lengthy hospitalization, treatment for substance abuse, and so on."

Additional costs due to missed treatment or the cessation/cancellation of a rehabilitation or treatment program should also be referred to the Second Injury or Reemployment Fund. Two examples of this would be

1) penalties charged by an assessment team for non attendance at appointment or
2) tuition fees charged even though a course is not completed.

The board has identified Carpal Tunnel Syndrome (CTS) as a workplace injury on which it has focused for preventive education. In 1996, the board developed a "Carpal Tunnel Syndrome Prevention Module." It reported that the claims incidence had risen from 140 in 1991 to over 250 in 1995.

In 1999 the board received 270 CTS claims. It accepted 106 and disallowed 164 or 60.7%. There is board data for the years 1996 to 1999.

Figure 29: Carpal Tunnel Claims – Acceptance / Denial Rates (1996 – 1999)

	1996	1997	1998	1999
Accepted (%)	78 (33%)	73 (30%)	103 (41%)	106 (39%)
Denied (%)	157 (69%)	171 (70%)	147 (59%)	164 (61%)
All Claims	235	244	250	270

The 1999 acceptance and disallow rate varies significantly among rate groups. For example, in G2230 (hospitals), three claims were accepted and fourteen were disallowed. In M7211 (meat packing), twelve were accepted and three were disallowed. In C3303 (Chain Stores, Food Outlets), for the four years 1996 to1999, twenty seven claims were disallowed and five were accepted. For M7208 (Poultry Processing), forty-one claims were accepted and fourteen were disallowed. For all groups, 639 claims were disallowed and 360 were accepted.

The board has no published policy for CTS. Within the board there was a 1986 "Claims Reference Guide" on CTS , which was amended in 1990. On September 2, 1997, a "CTS Adjudication Reference" was prepared. Both are included in the CSR Training Manual.[218] The questionnaire used by some CSRs was separately prepared and is not in the Training Manual.

[218] *CSR Training Manual,* Module 7, Class 5.10.

Most recently, the front line Client Services Department unit managers responded to the lack of consistent and clear direction by issuing the following to CSRs in their department. The adjudication reference accompanying the memorandum is the September 2, 1997 document.

> **Re: Carpal Tunnel Syndrome Guidelines**
>
> We have been in discussion with several people, workers, employers, and workers representatives regarding the acceptance/denial of Carpal Tunnel claims.
>
> By far and away the major concern is the inconsistency on how these cases are developed and decisions reached.
>
> As a result, a review was conducted to determine what guidelines Client Service Representatives were using to determine the acceptability of Carpal Tunnel claims reported to the Workers Compensation Board.
>
> It turned out that there was quite a variety of information being used to adjudicate these claims and that for the most part, with the exception of one unit, there was not a lot of consistency in Client Services as a whole.
>
> As you are aware, Bonnie Hender and the Prevention, Safety and Return-to-Work unit are responsible for giving presentations throughout the province and one of these presentations is concerning Carpal Tunnel. Therefore, it is imperative that the guidelines for the development of Carpal Tunnel claims is consistent with the information being provided by Prevention, Safety and Return-to Work.
>
> Please find attached a Carpal Tunnel adjudication reference that was authored by Andy Colibaba in conjunction with the development of the Carpal Tunnel module currently being used by the Prevention, Safety and Return-to-Work unit.
>
> The significant difference in this guideline is that it is no longer necessary that a job be both forceful and repetitive in order for the claim to be accepted. Very clearly, this guideline indicates that [a] Carpal Tunnel claim is accepted in cases where the work activity is either forceful and/or the activity is repetitive.
>
> Please ensure that effective immediately this is the only guideline being used to determine the acceptability of Carpal Tunnel claims. Hopefully, this will deal with some of the concerns raised by our stakeholders and result in more consistent overall adjudication of these very difficult claims.
>
> Please feel free to contact your unit managers if you have any questions or concerns regarding the application of these guidelines.

> Currently, plans are underway to have the Prevention, Safety and Return-to-Work Unit delivery presentation on Carpal Tunnel using their module. You will be advised of the place and time once it is available.
>
> In addition to this it is our intention to ask a member of the Appeals Committee, likely Don Seidlitz, to do an educational on the topic.

There are other examples of adjudication guidelines that have not been published in the board's policy or procedure manuals.

3.07.15 Freedom of Information and File Disclosure

The board is subject to the 1992 *Freedom of Information and Protection of Privacy Act*. The board's solicitor is its designated Access Officer.[219] To July 2000, there have been 57 formal requests to the board. Disputes between individuals and the board over the individual's right of access to information have gone to the Commissioner of Information and Privacy for Saskatchewan.[220]

Worker and employer access to a board file on a specific claim is excluded from the operation of the above statute, and addressed in sections 171.2 and 171.2 of The *Workers' Compensation Act, 1979*. A Worker's Advocate has a right of access to board files about a claim.[221]

The board has not kept records of the number of worker or employer requests for access to specific files or whether the requests were granted or denied in whole or part or the reasons for the denials. From January to August 2000, 678 files were reproduced for workers and 96 files for employers. There were another 67 files reproduced for representatives of either workers or employers.

The board does have published policy on access to file information.[222] It has several form letters and authorizations used in the administration of these sections.

3.07.16 Communications

The character and quality of the board's communications with individual workers and employers is crucial to fulfilling its mandate. Shortcomings in the board's communications have been the subject of recurring comment by the Committee of Review. It was a theme in the 1973 Committee report and again for the 1986 Committee, which found "complaints by workers about poor communication are fully justified."[223] Many employers had the same complaints.

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[219] Policy No. 16/92.
[220] *Saskatchewan Information and Privacy Commissioner Decision No. 94/007*, October 12, 1992.
[221] s. 161(5).
[222] Policy No .- Procedure ADM 24/95 and 06/96 and Policy 08/97.
[223] *Report of the Workers' Compensation Act Review Committee, September 1986*, p.49.

Poorly explained and communicated decisions, especially when they involve the exercise of discretion, will not be accepted as fair. "It is the view of the committee that much ill feeling and distrust on the part of injured workers could be avoided if board employees at all levels would provide claimants with proper reasons for any decision that is communicated to them."[224] In response, the board engaged a communications consultant to "develop a communications strategy."[225]

The 1992 Committee of Review revisited the board's public and individual communications. It focused on board decisions estimating future earning capacity. "The letters reviewed by the Committee show a lack of understanding by the board about communication or an unwillingness to make the necessary effort to communicate effectively."[226] The board's 1994 operational review found the board "lacks a formal communication strategy which addresses both internal and external communications."[227] A separate communications review report was prepared for the board.[228]

In 1996, the board responded to the 1992 Committee of Review as follows:

Improving Communications

> The Workers' Compensation Board recognizes that regular and informative communications with stakeholders is vital. Since the report of the 1992 Committee of Review, the board now utilizes a variety of communications tools which are contributing to a successful dialogue with our publics.
>
> In 1995, the WCB launched Compensation Reporter, an external newsletter which is distributed to registered employers, organizations representing employers and employees, and other stakeholders - more than 30,000 copies are circulated four times a year.
>
> The goal of the Compensation Reporter is to aid the readers in working with, and understanding, WCB policies and procedures. This newsletter has often credited the unique and important role of the Committee of Review process, and cited WCB initiatives recommended by past Committees of Review.
>
> An information package is available to anyone upon request, and is provided to all new employers registering with the WCB. The stock of brochures and forms is being reviewed in 1996, and edited as necessary to reflect current practices and statutory requirements. New items are also planned for 1996, particularly in the areas of Safety and Return-to-Work programs.

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[224] *Report of the Workers' Compensation Act Review Committee, September 1986*, p.51.
[225] *SWBC Submission to The Honourable Grant Schmidt Minister of Human Resources, Labour and Employment on the Report of the Workers' Compensation Act Review Committee, December 1987*, p.25.
[226] *A Report of the Workers' Compensation Act Review Committee, August 1992*, p. 22.
[227] Price Waterhouse, *Workers' Compensation Board Operational Review, Report to the Chairman and the Board, Phase II, June 1994*, p. 11.
[228] Price Waterhouse, *Workers' Compensation Board Communications Review, Draft Final Report, June 9, 1994.*

> Recent annual reports of the Workers' Compensation Board have been prepared in two parts. The report contains the Chairman's message, highlights of the year and financial information. More detailed statistics on injuries by industry grouping are presented in a supplementary document. It was the view of the 1992 Committee that the two annual report documents be consolidated.
>
> For reasons of reader preference and savings, the board expects to continue publishing a main Annual Report and a separate 50+ page Statistical Summary. The detailed information in the Summary interests fewer readers and the WCB prefers to use a less expensive production method than that used for the Annual Report.
>
> Each year, the WCB publishes and distributes 2500 annual reports and about 1500 of the statistical summaries. Although there is overlapping readership, usually those receiving the statistical summaries are employers, employer associations, trade unions, and employee organizations.
>
> Both publications are provided to key stakeholder organizations and they are also available upon request to any member of the public. In recent years, the Annual Report has moved towards greater reporting of new initiatives, programs, and changes within the WCB.
>
> The Workers' Compensation Board agrees with the 1992 Committee of Review that legislation could be written in an easy-to-understand format for both practitioners and the general public. This may be undertaken in the future.[229]

In 1997 the board reported as follows:

> **Communications and Consultations**
>
> Inferior communications was a longstanding irritant with staff, stakeholders, and individual WCB clients. As far back as 1982, Committees of Review singled out this problem.
>
> The new board concurred with the Committee of Review, as well as the Operational Review Phase II report, and established a full-fledged corporate communications unit to overcome the shortcomings.
>
> With this in-house capability, supplemented by consulting expertise, WCB communications is now meeting stakeholder information needs through newsletters, brochures and booklets, and a consolidated policy manual.
>
> The Planning, Research, and Communications unit works closely with other branches of the organization to execute stakeholder consultations. The

[229] *SWBC Response to the 1992 Review Committee Report on the Workers' Compensation Act, June 1996*, pp.4 - 5.

> WCB has made significant advances in consultations through the Mid-Year review and fall Rate Information meetings.
>
> The first WCB Mid-Year Review with employer and union stakeholders was held in July 1995. This Review focuses on half-year injury and cost trends.
>
> In the fall, the Rate Information meetings unveil rate proposals for the upcoming fiscal year on an industry code basis through a consultative - information sharing process involving over 70 employer and labour organizations. Both events are also forums for the discussion of major WCB initiatives.[230]

In addition, since 1997 the board has undertaken several internal communication initiatives and sponsored an annual two-day public conference (The Compensation Institute) on selected workers' compensation issues.

The board's communication approach has been focused on the public face of the board. External consultants are engaged to prepare the annual report and other high profile external and internal publications. The new staff support does political analysis and speech writing for senior board personnel.

The unit co-ordinates the publication of board documents and initiatives that put a public face on the board, such as the Mid-year Review, Compensation Institute and Speakers Bureau. It is responsible for the inventory of printed materials available for distribution to the public. It is responsible for the board's electronic communication through a website (www.wcbsask.ca).

The board has done extensive surveying of workers and employers in the past year. The surveys are not at the point of service or immediately after the service. Monthly telephone interviews are conducted. The worker survey population of 265 consists of four strata of time loss claimants who made claims in the last three months. Seventy are workers whose claims were handled by the Claims Administration Department. The remaining 195 are three groups of 65 whose claims were handled by each of the three Client Services Department Units (B, C and D). The surveys focus on service, values and expectations.

The responses from the seventy - worker population who dealt with Claims Administration are consistently more favourable for the board. For example, in July 2000, the service satisfaction rating was 93.5% among this group. For the other three, it varied between 79.7% and 89.8%. When asked if they ever had a problem with their CSR, the Claims Administration population response was 10.9%. For the other three, it varied between 15.6% and 28.3%. When asked if the board met their expectations, 54.7% said it did.

---

[230] *Renewing Workers' Compensation: A Report to the Minister of Labour on Major Accomplishments 1993-1997.*

The monthly employer survey population is 400. In July 2000, 81.9% felt the board was providing a high quality of service. 8.9% reported they had a problem with their Board representative.[231]

The board has undertaken cultural inventories of the entire organization and subgroups within the organization.[232] It assesses the current organizational culture against an ideal culture. It measures "the behavioural norms and expectations associated with the more abstract aspects of culture such as shared values and beliefs" to assess role clarity, role conflict, satisfaction and perceived commitment to customer service. The comparison is with historical averages of 700 other organizational units. The results pointed to a need for more consistent internal messages about expectations.

[231] See HJ Linnen & Associates July Survey results.
[232] Human Synergistics Inc., *Organizational Culture Report, Workers' Compensation Board, November 1999.*

4. CLAIMS EXPERIENCE AND ADMINISTRATION

4.01 Injury Frequency, Severity and Cost

Workers' compensation boards across Canada have reported their claims experience in terms of the frequency, duration and cost of their claims.

The frequency is expressed as an injury rate. The board estimates the number of covered workers based on assessable payroll and average weekly wages. This number is divided by the number of new time loss claims in a year to arrive at an injury rate. The rate determined by the board is always different than the rate determined by the Occupational Health & Safety Division, which uses all non-agricultural workers in the province and all claims, both time loss and no time loss claims.

Over the past decade, the number of time loss claims has been relatively constant. The number of covered workers as derived by the board from assessable payroll has increased. In the past two years the injury rate has been below the average for the decade.

Figure 30: SWCB Injury Rate (1990 - 1999)

Saskatchewan Workers' Compensation Board Injury Rate

1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
4.75	4.30	4.10	4.27	4.48	4.60	4.30	4.35	4.15	4.17

Death claims, including death from occupational disease, are a clear indicator of severity of injury, but not a reliable indicator of board performance.

The average duration of other claims has been used as a measure for the severity of injuries. The usual method is to use the number of calendar days for time lost from work as determined by the duration of wage loss benefit payments. The practice has been to use the number of days in the current year and in the previous four years on a claim. Not all claims will be settled in the year in which they are reported. Claims reported toward the end of the year will not be settled until the following year, at the earliest.

The percentage of current year time loss and fatality claims settled decreased from 81.5% in 1994 to 75.6% in 1996. Then in 1996, the board changed its reporting format. Prior to 1996, the board used a claims settled format capturing the full duration of all claims begun in previous years and settled in the reporting year. In 1996, the board reported in both this format[233] and a new format[234] that was restricted to claims reported and accepted in the report year. The rationale was to

[233] Saskatchewan Workers' Compensation Board *1996 Statistical Supplement*, Vol. 2 "Claims Settled."
[234] Saskatchewan Workers' Compensation Board *1996 Statistical Supplement*, Vol. 1 "Claims Reported."

report current information and not have the outcome of board initiatives, such as early medical intervention, skewed by past claims.

The significance of the change is that the board began to report on the front end of the process, namely acceptance of a claim, rather than the outcome, namely final settlement of a claim. Although, in 1996, the board promised to maintain settled claims data, the board does not have current data available on settled claims.

Figure 31: Settled and Reported Claims (1990 – 1999)

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Reported	37,821	35,127	32,447	33,034	34,811	36,629	37,169	38,954	37,657	36,346
Settled	33,126	32,542	28,954	29,541	30,876	31,370	32,471	n/a	n/a	n/a

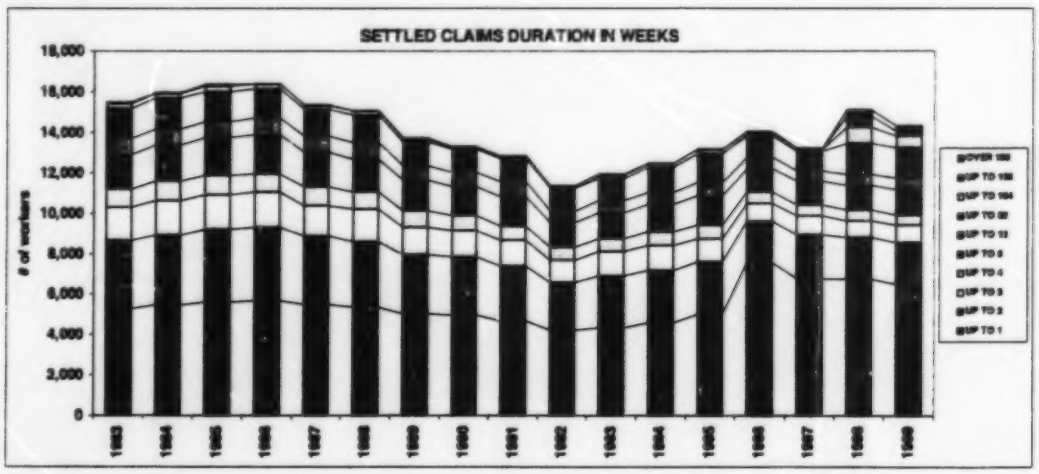
For no time loss claims the percentage of current year claims settled has remained constant at or above 90%. For the years 1996 to 1999 the average duration of accepted claims has increased by 16.4%.

Figure 32: Average claim duration (1996 – 1999)

	1996	1997	1998	1999
All Claims	21.4	22.2	23.9	24.9
Claims less than four weeks	6.42	6.53	6.49	6.52
Claims longer than four weeks	81.50	81.97	84.56	86.54

Underlying this change in the averages is a change in the frequency distribution of the duration of settled time loss claims.

Figure 33: Settled Time Loss Claims (1983 – 1999)



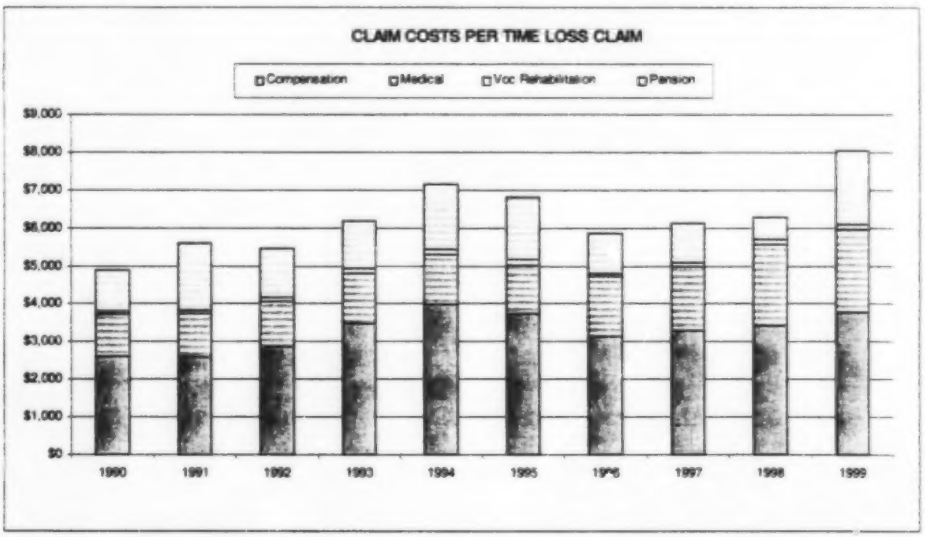
Caution must be exercised in interpreting the meaning of duration and focusing on board administrative actions to shorten average duration. Injuries take time to heal, even with aggressive therapy. Severe injuries take more time. There are delays in gaining access to medical treatment. There are other factors beyond the board's control which limit what it can do to speed up recovery and return to work.

Some of the annual costs of workers' compensation program outside the board have been discussed earlier. These are the industrial safety program, the Office of the Worker's Advocate and employer rate group safety associations. The remaining program expenses are administration, medical aid, compensation benefits and vocational rehabilitation.

Administration costs have risen since 1995 by all comparative measures – cost per time loss claim and as a percentage of assessable payroll, net assessments plus investment income, net assessments and total expenses. The number of board employees has also increased.[235]

The ten-year trend from 1990 to 1999 is that the annual cost per claim has increased. The percentages of the cost per claim spent on compensation payments to the injured worker and on vocational rehabilitation for the injured worker have decreased while the percentage spent on both medical aid and administration have increased.

Figure 34: Claims Costs Per Time Loss Claim (1990 - 1999)



Medical costs have increased most dramatically. Medical aid costs have doubled from $16 million to $32 million per year since 1990. They now constitute 17% of the

[235] In 1999, the total overtime costs were under $60,000, of which almost $45,000 was for work at the beginning of the claims process - document handling and registration of claims.

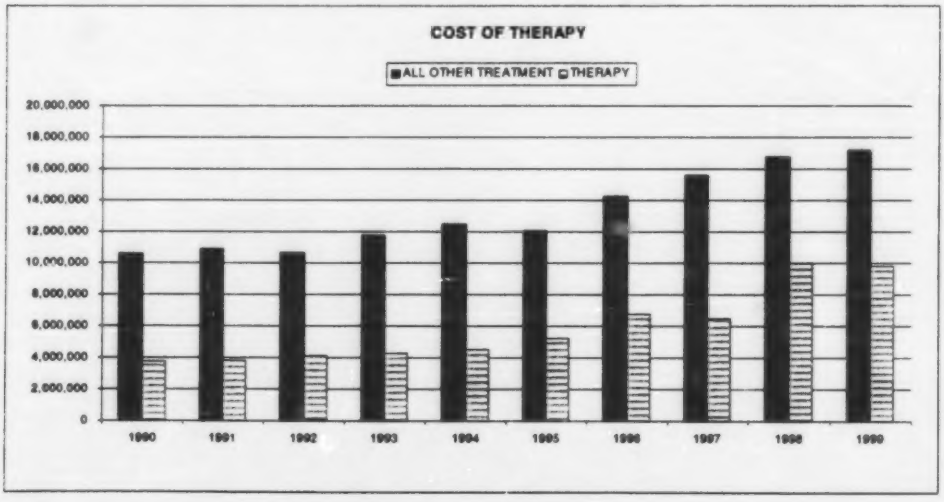
board's annual expenses. Medical aid costs per claim have risen 188.45% – from $482.24 in 1990 to $908.80 in 1999. As a percentage of total expenditures, medical aid declined from 14.97% in 1990 to 11.31% in 1995. Since then, it has risen to 17.01%.

Figure 35: Therapy and Other Medical Aid Costs (1990 - 1999)

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Medical Claims Only	19,721	19,489	17,474	17,499	18,225	18,067	18,690	20,079	19,240	18,337
Wage Loss Claims	13,276	12,923	11,461	12,011	12,615	13,278	13,018	13,430	13,081	13,108
Deaths	30	40	19	31	36	25	24	36	27	31
Total Claims	33,027	32,452	28,954	29,541	30,876	31,370	31,732	33,545	32,348	31,476
Medical Aid Payments ($000)	$15,927	$16,383	$16,592	$17,955	$19,175	$19,827	$23,415	$26,381	$29,398	$31,378
Med Aid Cost Per Claim	$482.24	$504.84	$573.05	$607.80	$621.03	$632.04	$737.90	$786.44	$908.80	$996.89
Annual Growth Rate	n/a	4.69%	13.51%	6.06%	2.18%	1.77%	16.75%	6.58%	15.56%	9.69%
Total Expenses ($000)	$106,414	$128,252	$123,477	$137,123	$164,838	$175,349	$144,762	$160,928	$172,848	$185,535
Medical Aid as % of Total	14.97%	12.77%	13.44%	13.09%	11.63%	11.31%	16.17%	16.39%	17.01%	16.91%

Any number of factors may be influencing this trend – more vigilance by providers to assign costs to third parties rather than the public health care purse, more costly and increased usage of medical services, etc. One discernible cause is that since 1996 and the early intervention initiative, the major cost increase has been for therapy – biomechanical assessments, physiotherapy, massage therapy and secondary and tertiary rehabilitation treatment.

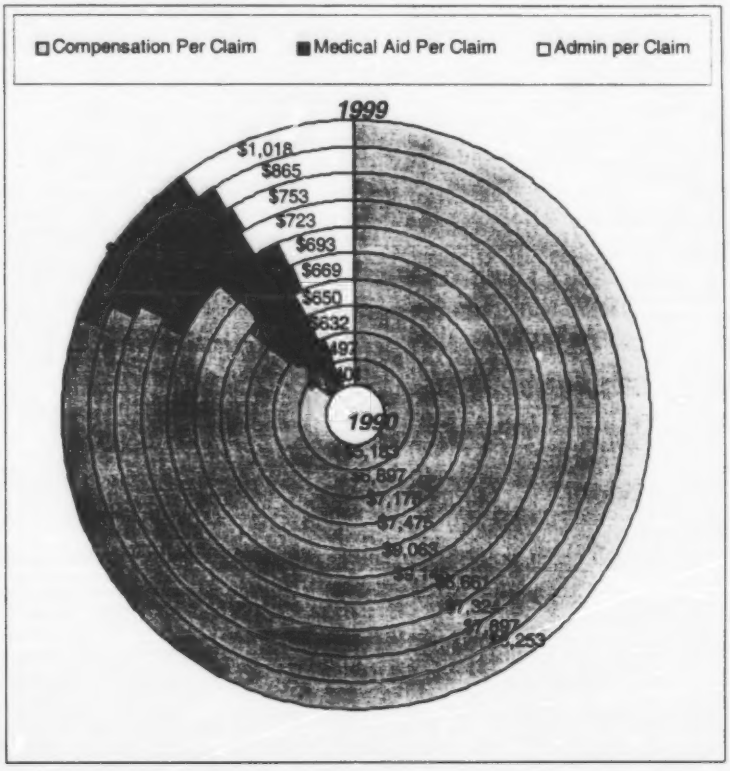
Figure 36: Therapy Costs (1990 - 1999)



The board has practices in place so that it does not pay an account twice. The board is the first payer for injured workers and has a protocol and practice of giving data to the Medi-Care Insurance board on all payments it makes to assist in ensuring health care providers are not paid by both the board and MCIB for the same service. MCIB has the larger database and uses the board's data to provide assurance it does not pay for a service for which the board has paid.[236]

Corresponding to the increased percentage in administration and medical aid costs, the total annual payments for compensation have declined during the same period as a percentage of total annual expenditures. The compensation payments as a percentage of total board expenditures rose from 64.66% in 1990 to 69.36% in 1994, but have declined to 58.31% in 1999.

Figure 37: Compensation, Medical Aid and Administration Cost/Claim (1990 - 1999)



Through the Association of Workers' Compensation Boards of Canada, there has been a national effort to identify and find common definitions for key statistical

[236] The board also shares data with the Department of Social Services to identify individuals receiving benefits from both. The arrangement does not identify individuals who apply for social services benefits after the board has terminated payment of benefits.

measures beyond frequency, severity and cost. So far, the work has identified twenty measures for external publication and ten for internal board use.

The first twelve for external publication simply report claims activity, revenue and expenditures. Interjurisdictional comparisons begin with the thirteenth – actual and provisional average assessment rates. The remaining seven are:

- market rate of return
- percentage funded, including reserves
- average calendar days from injury to first payment issued
- average calendar days from registration to first payment issued
- average new impairment award percentage
- propensity to award impairment benefits
- average composite duration of claim

The ten key statistical measures for internal distribution, some of which are published by boards, are as follows:

1. number of recurring claims of the same injury
2. propensity of recurring injuries
3. average new long term earnings loss percentage award
4. propensity to award long term disability benefits
5. injury frequency
6. percentage of workforce covered
7. discount rates
8. staffing levels
9. active caseloads
10. number of employer accounts per assessor

The AWCBC has also identified some indicator ratios:

- administration costs per $100 of assessable payroll
- benefit costs incurred per $100 of assessable payroll
- benefit liabilities expressed as a multiple of benefit payments made in the year
- investment income (gain or performance) in excess of liability requirements
- OH&S costs per $100 of assessable payroll
- average cost per claim
- administration cost per time loss claim

4.02 Notice and Initial Acceptance or Rejection of a Claim

The board receives notice of a worker injury from three primary sources – the worker, the employer or a health care professional. It is the employer's duty to report and the worker's duty to mitigate loss of earnings.[237] The board has no policies on enforcement of the employer's duty to report within five days. The reports of health care professionals and hospital officials verify the existence and nature of the injury.[238]

Upon receiving a report, the board is required to investigate and initiate a claim, which may lead to payment of medical aid only, lost wages (or both), or for death benefits. The board categorizes claims as "time loss," "no time loss" and "fatalities."

The first decision to accept or reject a claim is the most critical legal and practical decision to be made affecting the claim. This decision on the cause of an injury is a precondition to any subsequent payment of medical costs, wage loss or other benefits.

On receipt of notice a new claim, a file is opened and assigned a number. The identified employer is matched with a registered employer to whom the claims costs will be charged for assessment rate setting.

At this stage, a claim may be rejected for several good reasons. Sometimes duplicate claims have been opened, perhaps because initial reports on the same injury from the worker, employer or health care professional contain different information or spellings of the name of the worker or employer. Duplicate claims will be cancelled, in the same or subsequent calendar year. The number of duplicate claims is reported each year in the annual report statistical summary.

A claim may be rejected or simply closed before adjudication on its merits for other reasons. It may relate to a worker or employer not covered by the statute. It may be an interprovincial claim that is the responsibility of another board. Or the board may never receive an answer to its initial communication to the worker.

The board records the number of time loss and no time loss claims cancelled or disallowed. The rate at which claims are opened and then cancelled, rejected or disallowed is displayed below. Much of the data was not available prior to 1995, and there may be an anomaly in the following 1999 rejected claims data.

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[237] ss. 51.1 - 53.
[238] ss. 54 - 56.

Figure 38: Claims Profile (1990 - 1999)

Claims Profile	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Wage Loss Claims	13,276	12,923	11,461	12,011	12,615	13,278	13,018	13,430	13,081	13,108
No Wage Loss Claims	19,721	19,489	17,474	17,499	18,225	18,067	18,690	20,079	19,240	18,337
Fatalities	30	40	19	31	36	25	24	36	27	31
Total Claims Accepted	33,027	32,452	28,954	29,541	30,876	31,370	31,732	33,545	32,348	31,476
Total Claims Reported	37,838	35,127	32,447	33,034	34,811	36,629	37,169	38,954	37,657	36,346
Difference	4,811	2,675	3,493	3,493	3,935	5,259	5,437	5,409	5,309	4,870
as % Reported	12.71%	7.62%	10.77%	10.57%	11.30%	14.36%	14.63%	13.89%	14.10%	13.40%
Disallowed Claims	n/a	n/a	n/a	n/a	n/a	2,206	2,926	2,867	3,007	2,809
as % Accepted						7.03%	9.22%	8.55%	9.30%	8.92%
as % Reported						6.02%	7.87%	7.36%	7.99%	7.73%
as % Difference						41.95%	53.82%	53.00%	56.64%	57.68%
Remainder of Difference						3,053	2,511	2,542	2,302	2,061
as % Reported						8.33%	6.76%	6.53%	6.11%	5.67%
Difference Profile										
Rejected - No Reply	n/a	n/a	n/a	n/a	n/a	614	731	878	1022	1438
Duplicate/Cancelled						70	580	404	360	412
Not Covered by Statute						242	159	177	177	243
Interprovincial						364	351	317	265	252
Other						1763	690	766	478	-284
Total						3053	2511	2542	2302	2061
Repeat Claimants										
2 claims per claimant	n/a	n/a	n/a	n/a	n/a	2459	3566	3774	3610	3354
3 claims per claimant						337	629	677	606	567
4 or more per claimant						95	184	190	196	162
Total						2891	4379	4641	4412	4083

For the first six months of 2000, at August 23rd, the acceptance / disallowance and other rates were as follows:

Figure 39: Accept / Disallow And Other Rates (January - June 2000)

2000	Claims	Open Unadjudicated	Re-open Unadjudicated	Accepted	Disallowed	No Coverage	No Reply	Other
January	2967	0.1%	0.2%	86.0%	6.7%	0.7%	3.8%	2.5%
February	2816	0.1%	0.3%	86.9%	6.2%	0.8%	3.3%	2.3%
March	3311	0.4%	0.2%	86.5%	6.3%	0.5%	2.9%	3.2%
April	2664	0.6%	0.6%	86.7%	6.4%	0.6%	2.8%	2.4%
May	3361	0.9%	0.9%	88.0%	5.4%	0.5%	2.4%	1.8%
June	3326	1.2%	1.0%	89.2%	5.3%	0.4%	0.9%	2.0%

The board triages and routes claims to be adjudicated by Client Service Representatives (CSRs) according to their complexity and likely duration – less than four weeks and four or more weeks. Most no time loss claims and time loss claims likely to be less than four weeks are assigned to the Claims Administration Department which currently employs thirteen CSRs. All other claims are assigned to the Client Services Department, which currently has forty-three CSRs.

The number of initial assignments to the Client Service Department and the number of later referrals to this department from the Claims Administration Department are captured in the following table.

Figure 40: Client Services Department Claims (1997 - June 2000)

	2000*	1999	1998	1997
Number of Claims Assigned Initially to Client Services Department	1732	3842	4059	4373
Number of Claims Subsequently Referred by Claims Administration Department to Client Services Department	2522	4007	3596	3066
Totals	4254	7849	7655	7439

* Figures as of June 30, 2000

Within the Client Services Department, claims are distributed to three work units. Each unit is responsible for claims involving a set list of 26 "super employers" identified in 1995. These are employers with over 1000 employees in 1995, over 15 claims per year and a payroll over $25m. Another work assignment division is geographic. Based on postal codes, an east-west 'line' through Davidson separates claims on a north and south basis. A balanced number of claims is then distributed to the three Client Services Department work units.

Initial communication with the worker is not normally by telephone or in person. The worker is to be sent an "acknowledgement card" to which is affixed a label with the name of the responsible CSR and the claim number. This is the 1995 "Quick Response Cards" initiative.[239]

Prompt decisions on whether a claim is accepted or disallowed are crucial for the worker to know if the board is going to pay compensation or if he or she has to look elsewhere for income continuity. Once a decision is made, prompt communication and delivery of a cheque are essential to the worker. This aspect of the board's service has been the first focus of its Business Process Simplification initiative.

The Business Process Simplification initiative seeks to simplify the board's processes to improve efficiency and effectiveness. The board is not reengineering to cut costs The board's goal is to improve service delivery and build high performance processes that produce the desired results. The board selected the Michael Hammer process simplification methodology with a reengineering team of board employees leading the initiative.[240] Fundamental rethinking and radical redesign are essential to success under this methodology.

Some of the techniques employed in process reengineering are transferring tasks to the customer; changing the order of tasks; eliminating rework and tasks which do not add value; accepting a higher risk tolerance; and focusing on the routine situation, not exceptions. Information technology is a critical enabler of reengineering. Targets are set. The board's target is payment of 100% of first wage loss replacement payments within 14 days of the injury. The Business Process Simplification projects currently

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[239] *Saskatchewan Workers' Compensation Board Annual Report 1995*, p. 12.

[240] See Michael Hammer & James Champy, *Reengineering The Corporation: A Manifesto for Business Revolution* (1993, Harper Business); Michael Hammer, *Beyond Reengineering: How the Process-Centered Organization Is Changing Our Work and Our Lives* (1996, HarperBusiness); www.hammerandco.com.

underway are: (1) time to first payment; (2) case management redesign; (3) appeals; and (4) underwriting or assessment collection.

The time to first payment project has resulted in an increase in the percentage of injured workers who receive their first payment within fourteen days of injury. The increase has been from 24% in 1999 to over 50% by mid-2000. Substantial improvements have been made in the time to do the initial tasks of scanning and releasing documents to the CSRs and the final step of making payment once it is authorized.

The average time for the adjudication phase of the process has also been shortened. The main reasons are: (1) a decision to actively seek information rather than waiting for it to arrive at the board; (2) acceptance of a higher tolerance for risk by the board; and (3) some transfer of risk to the worker. The latter two are implicit in the board's decision to adopt the following decision tree, referred to as the 3Rs – Right Amount of Information (essential to make a correct decision), Right Time (active pursuit of the needed information), and Right Decision.

Figure 41: 3Rs Decision Tree

Specific Incident	Delay in Reporting	Decision
1. Employer Confirms Incident	> 8 days	Accept
	> 7 days and believable continuity of symptoms	Accept
	> 7 days, no believable continuity	Disallow
2. Employer Disputes or does not Confirm Incident	< 3 days and medical sought	Accept
	> 3 days and medical sought and believable third party witness	Accept
	> 3 days and medical sought and no believable third party witness	Accept
Non-specific Incident		
1. Medically confirmed effect matches cause	Symptom began x weeks (depending on diagnosis) after starting new job duties	Accept
2. Effect not medically confirmed to match cause		Disallow

Another part of the "time to first payment" is a pilot project dividing the Client Service Department into a decision unit and a claims management unit. Six CSRs are devoted exclusively to making the initial adjudication decision to accept or reject a claim. New claims are assigned to them by alphabetic groups. Once accepted, the file is passed on to another CSR who is responsible to manage the claim. Beginning in June 2000, the Quick Response cards are no longer sent to workers whose claims are routed to the CSRs performing initial adjudication in the Client Services Department. The board expects the claim will have passed to a second CSR by the time the card would be received by the worker.

One of the short-term consequences of the Business Process Simplification initiative is that the fourteen employees on this project and their experience are off the front line of service delivery.

4.03 Adjudicating and Communicating Decisions

The 1978 Committee of Review believed that "Adjudication is the board's most important task."[241] Fair decisions and fair and reasonable treatment of workers and their families requires fair rules, fair processes and fair-minded individuals making the decisions. The rules come from the statute and the board's published policy and procedures guiding the administration of the statute. The inquiry and decision-making process is an organizational design left to the discretion of the board. The processes can facilitate or create barriers to worker and employer access to information and service.

While various persons will supply information and make representations to the board, the adjudication process is based on an informal, flexible and timely inquiry by the board. The inquiry approach places a great responsibility on the employees of the board whose job it is to gather the evidence, weight it and make the critical decisions.

Apart from the monthly surveys, the board does not have a systemic process in place to monitor on an on-going basis whether the persons making adjudication decisions conduct thorough investigations; consider all relevant information; reach conclusions supported by the information on file; appropriately apply the burden of proof; apply the applicable rule correctly; promptly reply to inquiries and requests with courtesy and respect; disregard extraneous or immaterial information; communicate and provide accurate information clearly to workers and employers; or communicate their decisions with thorough explanations and comprehensive reasoning in support of the decisions.

The acceptance of a claim may begin a long relationship between the worker and the board represented by one or many successive CSRs who will make many decisions affecting the worker and his or her family. The CSR's role is not to negotiate with the worker and employer, but to decide each issue in accordance with the statute and board published policy. It is intended that economically vulnerable, disabled persons will receive benefits without delay on initial adjudication or appeal. They will not have to negotiate for benefits from a position of weakness.

Investigation, adjudication, decision-making and communication of decisions are at the heart of the board's mandate.[242] It is crucial that the board have well qualified, well suited and well trained persons with sufficient time and resources to adjudicate.

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[241] *Report of the Workers' compensation Act Review Committee - December 1978*, p. 53.
[242] See *A Report of the Workers' Compensation Act Review Committee - August 1992*, p. 2.

The board's qualification requirements to be a CSR are a combination of education and experience. At least one-year experience as a Clerk IV at the board is required to become a CSR in Claims Administration. External candidates would not qualify. External candidates can qualify for a position as CSR in Client Services if they have two years post secondary education in "business, health care, education or social sciences" and five years successful experience in a career related to one of these. The board uses Wonderlic's Personal Characteristic Inventory (Murray Barrick, Ph.D. and Michael Mount, Ph. D.) questionnaire to screen applicants. This tool links questionnaire answers to extroversion, agreeableness, conscientiousness, stability and openness.

The pay grade for CSRs working in the Claims Administration Department is seven annual steps from $2,674 to $3,412 per month (Group 4). For those in the Client Services Department it is from $3,218 to $4,109 per month (Group 1).

There is no position of senior CSR. The six Senior Claims Officer positions were abolished on May 9, 1994. The two Earnings Replacement Officers were made Senior Claims Officers at that time when the Earnings Division was disbanded. Effective May 1, 1996, the salary of all CSRs in Client Services was raised to that salary of the Senior Claims Officers.

The board has undertaken several training initiatives in recent years – "... our staff have been involved in more training in the last three years than I was involved in during my first 22 years of my tenure at the board."[243]

The following tables and charts profile the CSRs by service with the board, experience as a CSR and education. There are 56 CSRs, of whom 41 are female. Their average CSR age is 36 years. The median age is 35 years. There are 43 CSRs in the Client Services Department (31 female and 12 male) and 13 in the Claims Administration Department (11 female and 2 male). Both on average and at the median, the CSRs working in Claims Administration are older and more experienced than those in Client Services. Nineteen CSRs have less than 1½ years experience as a CSR.

In 1995, the board reported it had organized claims handling " ... to provide more personalized service, and to provide a new concentration of expertise on those claims which were more complex or of greater duration."[244] By 2000, the front line experience pool has grown shallower.

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[243] Ken Dusselier, Manager of Client Services, "WCB Claims Management Process (Part1)", Compensation Institute 2000, www.wcbsask.com/whatsnew/Comp%20Inst%20200/wcb_13b.htm, p. 14.

[244] *Saskatchewan Workers' Compensation Board Annual Report 1995*, p. 2.

Figure 42: CSR (Client Services Dept.) Experience, Service and Education

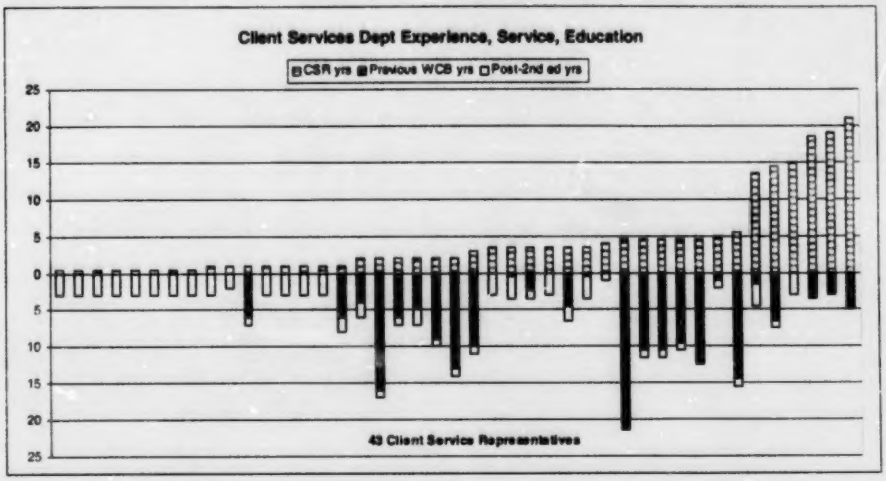
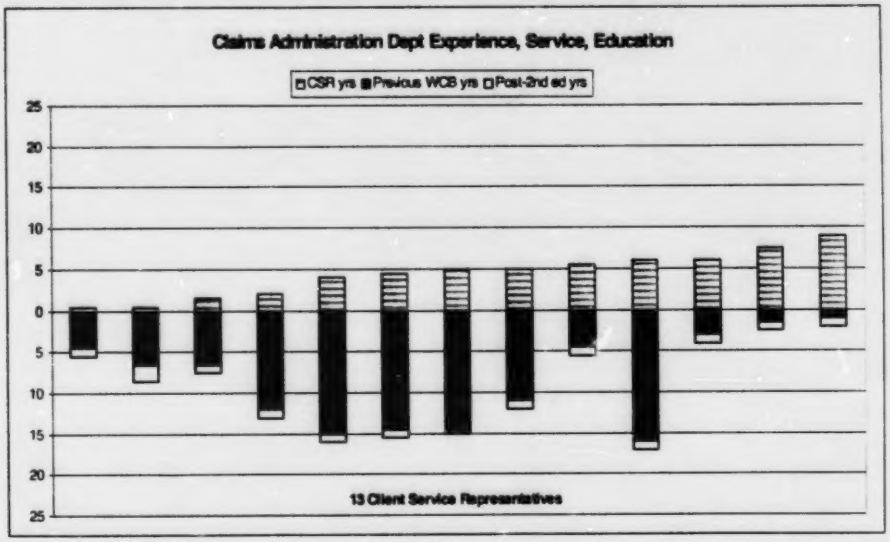


Figure 43: CSR (Claims Administration Dept.) Experience, Service and Education



All of the CSRs work in the board's Regina office. Their predominant contact with injured workers and employers is by telephone and correspondence. They seldom attend at a worksite other than their own and virtually never visit a worksite in the course of an investigation of a claim. Some representatives of the super employers have made efforts to become personally acquainted with the CSRs dealing with the claims of their employees and have invited CSRs to their worksite.

The 1978 Committee of Review considered it important that there be more direct contact between board employees and workers and employers. "It seems to us in the

course of the hearings, that the greater the distance from Regina, the greater the degree of alienation from the board."[245]

All documents related to any claim are scanned into electronic images and the CSRs perform their daily work at computer stations. To manage their time and priorities, they can screen and route telephone calls to voice mail. Often the calls are from workers, or family members, about administrative or process matters, such as when their next cheque will be issued and whether arrangements can be made for them to come and pick it up rather than have it sent in the mail or electronically deposited.

Another source of telephone calls is inquiries about expense entitlements. The entire process relating to entitlements and amounts is foreign to many employees who do not have occasion to travel or claim expenses in their work. These are individualized circumstances depending on residence and family circumstances and treatment requirements. Some workers want or need travel expense advances before committing to take treatment.

When a CSR logs on to the computer system, the monitor displays the CSR's pending work queue. The queue codes, descriptions and the number of different documents for each code are as follows.

Figure 44: CSR Work Queue Codes and Descriptions

Code	Description	No.	Code	Description	No.
BAM	Board/Appeals/Manager Referrals	13	**NC**	New Claims	1
BP	Benefit Payments	2	**ND**	New Documents	95
BPR	Benefit Payments (Returns)	19	**OPR**	Overpayment Review	1
CC	Calls On Claims	18	**PFI**	PFI Referral	2
CR	Claim Reviews	40	**PPE**	Pre-Paid Expense	1
CU	Claim Information Updates	1	**PU**	Priority Payments	2
DC	Disallowed Claims	26	**RC**	Referred Claims (Incoming)	8
DD	Daily Diary	24	**RCP**	Referred Claims (Priority)	32
ER	ER Reviews	6	**RFST**	FCE, Secondary and Tertiary Report	3
FR	File Referrals	2	**RR**	Referrals For Review	2
MA	Rejected Medical Accounts	20	**TR**	Timed Claim Reviews	4
MC	Medical Consultant's Referrals	3			

[245] *Report of the Workers' Compensation Act Review Committee - December 1978*, p. 55.

Each of the 325 types of documents or prompted activities has a unique identifying code. Ten of the 325 are also routed to the queue of a CSR's manager. The ten are:

Figure 45: Document Routing

1	Worker's Advocate Correspondence	6	Earnings Replacement Data Sheet
2	Ombudsman Correspondence	7	Memo/Directive - Appeals Committee
3	MLA Correspondence	8	Memo Manager Client Services
4	Lawyer Correspondence	9	Letter - Appeals Committee
5	Vocational Services Earning Capacity Report	10	Review Open Adjudicated Valid at 6 Weeks

Each day, new claims are routed to CSRs in a "lumberman's tally" method within the Client Services Department. Regardless of the complexity of the claim or the experience of the CSR, each new claim is added to the queue of the next CSR in the electronic line. In the Claims Administration Department new claims are routed according to alphabetic groupings. The CSRs can identify duplicate claims and become familiar with workers making repeated claims.

When a CSR is on vacation or absent for any reason, he or she may be temporarily removed from the distribution list for new claims, but new documents and prompts continue to be added to his or her queue. Either a replacement or another CSR must be assigned the absent CSR's queue if it is to be kept current. Under their schedule of nine work days in two weeks, CSRs use a buddy system to cover for one another on days off work.

The following table (figure 46) is a snapshot of the caseload and queues of the thirty-three CSRs in Client Services on July 19, 2000. If a document or prompt has been in a queue one day or more, it is "outstanding."

The board has a computer program that does the earnings calculations on each file to generate payments to injured workers. The formulae, algorithms, parameters and deductions in earnings calculation are embedded in the program.

Figure 46: Client Service CSR Caseload and Queues

Caseload		Queue	
CSR	Cases	Outstanding	Current
1	97	74	16
2	66	18	6
3	84	64	14
4	77	0	13
5	84	45	6
6	90	11	1
7	81	0	0
8	95	26	9
9	83	11	3
10	89	22	12
11	114	222	41
12	64	1	0
13	115	104	4
14	103	1	4
15	94	0	17
16	83	24	11
17	96	1	2
18	100	16	2
19	101	6	6
20	92	144	21
21	98	5	0
22	98	73	7
23	125	67	11
24	117	188	19
25	83	95	11
26	91	47	22
27	101	7	0
28	121	185	36
29	72	50	10
30	86	0	0
31	119	92	13
32	64	22	9
33	65	8	11
Total	3048	1629	337
High	125	222	41
Low	64	0	0
Average	92.36	49.36	10.21

A marked feature of basing benefits on a percentage of net earnings rather than a percentage of gross is that the amount of compensation is subject to changes in taxation and contributions to CPP and Employment Insurance. Benefits are reduced by "bracket creep."

The formulae and calculations in each case are handled away from the responsible CSR's desk. They are so complex that CSRs and managers often do not understand them and are unable to explain to the worker why he or she is being paid a specific amount. This frustrates both the worker and the CSR and adversely affects their relationship.

Benefit calculation complexity increases opportunities for error. There have been situations where undetected payment errors have been made for a lengthy time.

In one case the board demanded and started to recover a large overpayment from a totally disabled worker because he received a retroactive CPP disability pension.[246] The worker protested and the board undertook a thorough review of payments over five years.

It was determined that there was no overpayment. In fact, due to errors the worker had been underpaid by several thousand dollars.

There is also a question whether the benefit calculation method assists in encouraging and supporting workers who return to work to perform a part, but not all, of their former duties.

The manner in which the work is distributed to the CSRs and the scope of the administrative tasks they must perform competes with the time they have available in a day to perform their more complex analytical, judgmental, decision writing and communicating responsibilities.

[246] s. 99.

Timely decisions are critical to a fair process. There is always a tension between the need for prompt decisions and thorough inquiry to reach correct decisions and comprehensive explanations for the decisions.

The board measures the time to implement accepted claims. It does not measure the time it takes to disallow claims or to implement appeal decisions.

During the course of making initial inquiries into claims and throughout their ongoing management, the CSR will review medical reports and weigh medical evidence. Board physicians are available to provide information, undertake research, give opinions and assist in facilitating health care for workers.

The mission of the board's medical unit is "to provide consultative service to the organization and also to work effectively with the outside health care providers in order to facilitate timely and optimum care to the injured worker." The board employs four full-time and two part-time Medical Officers and one part-time Chiropractic Consultant. Their opinions on specific files for CSRs or appeal decision-makers is based on information provided to them by board personnel, other health care providers and not direct examination of the worker. They also do permanent functional impairment assessments.

Since 1993, the first year for which data is available, the number of written referrals to the Medical Officers has declined dramatically.

Figure 47: CSR Referrals to Medical Officers (1993 - 1999)

1993	1994	1995	1996	1997	1998	1999
15,096	14,364	9,998	6,769	5,671	4,707	4,932

The number this year is consistent with the numbers in 1998 and 1999. These numbers do not include telephone or walk-in referrals from CSRs. The Medical Officers seek to answer consultation referrals within seven days.

The decrease in the number of referrals to the Medical Officers does not necessarily mean the CSRs are more knowledgeable about medical related issues. In part, because of the Early Intervention Program initiative, the parties to medical conflicts have changed. It is no longer exclusively between the board relying on its Medical Officers and the worker's primary care giver.

Some of the conflict is now between the worker's primary care giver and the secondary or tertiary assessments team or treatment centre. This reduces the incidence when a Medical board would be used to resolve differences. It may change the usage of Medical Review Panels if the board favours the opinions of the assessment teams and treatment centres over the primary care giver.

Each decision letter by a CSR on initial acceptance or rejection of a claim and throughout the life of the claim, which can be the life of the injured worker and his dependants, may be the subject of a review request. The character and quality of communications with individual workers and employers has received repeated attention by Committees of Review.[247]

The board has standardized letters to assist CSRs with most common communications. Although the form letters do not prompt to describe the extent or nature of the investigation, the evidence considered, how it was evaluated, any contrary opinions of the worker considered or the reasons for the conclusion as opposed to other possible conclusions, the CSRs are expected to customize the letters to the situation. There is no requirement or practice that the CSR meet face to face with workers before deciding or communicating specific decisions. An appeal pamphlet is sent to the worker with negative decisions.

4.04 Medical Rehabilitation – Early Intervention Program

The 1992 Committee of Review observed:

> Although the board pays the cost of medical care for injured workers, the board has no right to intervene in the treatment plan. Decisions regarding treatment are to be made by the worker's physician in consultation with the worker.[248]

At the same time, the Committee recognized a need for "a comprehensive and aggressive program having as its objective the return of the worker to his or her former occupation, or to some alternative suitable and available employment."[249] There were serious concerns about access to the Injured Workers' Program at Wascana Rehabilitation Centre.

In 1994, the board appointed a task force to look at injuries and claims historically difficult to resolve, which are often sprains and strains. The task force reported in October 1995.[250] It recommended a time driven assessment and treatment approach accessible to workers closer to their homes.

Within the board, the administrative claims flow structure was to be changed to prompt Client Service Representatives (CSRs) and encourage them to identify "red flags" or risk factors for potential chronicity and therefore referral for external assessment. This was to be a direct intervention by the board into the treatment of the worker by his or her primary health care provider. The board was to identify those potentially requiring early intervention; monitor, periodically review and make

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[247] E.g., *A Report of the Workers' Compensation Act Review Committee, August 1992*, pp. 21 - 2.
[248] *A Report of the Workers' Compensation Act Review Committee, August 1992*, p. 15.
[249] *A Report of the Workers' Compensation Act Review Committee, August 1992*, p. 7.
[250] *Report of the Task Force on Early Intervention*, October 1995.

referrals; facilitate and implement the intervention; and evaluate and follow-up. The board adopted the task force recommendations and reorganized its claims administration processes.[251]

Today, there are 29 board approved secondary assessment teams in fourteen communities and 11 tertiary teams in four communities. There are two mental health teams in one community. There are five secondary assessment upper extremity teams in two communities. Four of them do tertiary assessments. There are 28 secondary treatment centres in fourteen communities and 12 tertiary centres in five communities.

Two critical components of the resulting board process are the *Expected Recovery Time Tables* prepared for the board in January 1996 and the chronic disability risk factors. If there is an injury, which is not in the *Table*, the board refers to other sources. The primary one is the *Medical Disability Advisor* by Presley-Reed.

If there is no return to work date and the expected date or recovery is exceeded, or there is no active treatment or no definitive diagnosis, the board considers the worker to be a high risk for chronicity.[252] If the worker is back to work and continues to receive long-term treatment or is at risk of being unable to continue at work, intervention is undertaken. If the worker exhibits a number of the high risk factors, intervention is considered appropriate.

Figure 48: SWCB Chronic Disability Risk Factors

EAR	Adversarial Relationship with employer	**MLP**	Lack of physical symptoms	**WMC**	Worker has multiple Time Loss Claims
ECE	Conflicting employment (second employment, self-employed)	**MMA**	Missed medical appointments	**WMP**	Worker (money) financial problems
ECR	Compensation rate exceeds wages	**MPP**	Prior problems	**WPD**	Worker perception of disability out of proportion
EIE	Insecure employment (no seasonal)	**MPS**	Psychological / psychiatric problems	**WRC**	Worker role conflict (work versus dependent responsibility)
EPP	Employment poor performance	**WAG**	Worker age (advanced)	**WRX**	Worker drug / alcohol abuse
EWD	Worker dissatisfied with job excuses for not Returning to Work	**WAR**	Worker adversarial relationship with WCB	**WSD**	Worker spouse on disability or compensation
MCM	Concurrent other medical problems (diabetes, heart)	**WED**	Worker education	**WSL**	Worker second language is English
MCP	Chronic pain syndrome / symptoms	**WFP**	Worker family problems (illness, divorce, death)	**WTP**	Worker communicates by third party (e.g. spouse)
MCS	Changes in symptoms and affected areas	**WLM**	Worker lack of mobility (rural, long time resident)		
MFC	Frequent changes in primary caregiver	**WLP**	Worker litigation is progress (motor vehicle accident, etc.)		

[251] Policy 04/96.
[252] Health Care Services Unit, "Medical Rehabilitation of the Injured Worker", p.11.

The board has established practice standards for its approved service providers – audiology, chiropractic, counsellors, exercise therapists, massage therapy, occupational therapy and physical therapy. It has manuals for secondary and tertiary assessment teams and treatment centres.

Some of the standards in the manuals have been changed without updates to the manuals. For worker safety, newly accepted teams and centres must employ staff qualified to perform functional testing. The board will now utilize a practitioner with less than three years experience "based on the merits and strengths of the proposed treatment team." The board's relationship with each team and centre has not been formalized through comprehensive written agreements with each.

The assessment teams do physical functional and psychosocial assessments, clarify diagnosis and make recommendations to the primary care giver about treatment and return to work. The primary care giver decides whether to accept the recommendations.

Some workers find some of the questions in the assessment questionnaires objectionable and intrusive of their privacy. Such questions inquire about personal and family history, menstrual cycles and whether intercourse is painful.

Sprains and strains, and particularly low back, neck and arm pain are the most frequent compensable injuries. Normal work activity may cause or aggravate sprains, strains and inflammation. These musculoskeletal injuries, called by various terms, happen in muscles, tendons, ligaments, joints, nerves, blood vessels and related soft tissue. They may be non-specific or specific pathologies such as carpal tunnel syndrome or epicondylitis. Over time, it has been learned that timing, site and type of intervention are crucial to recovery.

The clinical course of the disorders does not correspond to the board's administrative course measured in time loss benefit payments. Many workers will not come to the board until long after the first onset of symptoms. Many workers will work with the pain, seek relief by various means and delay seeking a diagnosis. They may not book off work until they cannot cope any longer. As a consequence, the board's administrative process with its staged and timed interventions will begin at varied times in the clinical process for the workers making a claim.
The challenge is not to over-treat workers whose condition will resolve quickly because they began the administrative process early in their clinical progress and to recognize and treat those who do need care to avoid long-term disability.

The board's approach is standardized, even if the injured workers are not. The board delays intervention to allow workers whose condition will resolve with treatment by their primary care giver to do so and to return to work. For the others, with more severe and complicated conditions or more demanding workplaces, delay may extend their condition beyond the average.

The board is still developing a formal evaluation system for the teams and centres. Currently, *ad hoc* reviews are undertaken when a treatment centre's performance varies significantly from others. The fees may be significantly higher, the worker satisfaction survey scores may be lower or physicians may express concerns.

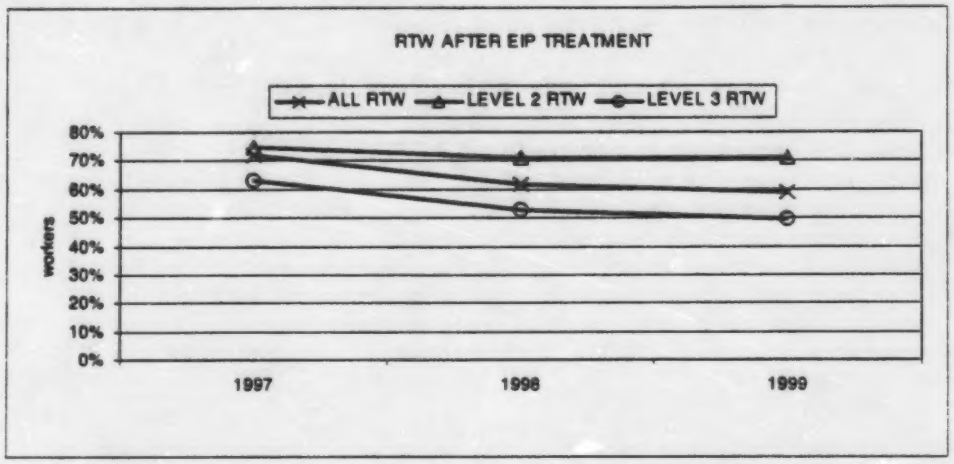
The board maintains data on return to work, loss time to date of admission, number of treatment days, average cost of treatment and workers attached to employers who return to work. Twice a year this is shared with the treatment centres without identifying the other centres.

Treatment providers make treatment outcome reports to the board at the time of discharge of each worker. They report the following outcomes:

1. discharge without restrictions - returned to work
2. discharge without restrictions - did not return to work
3. returned to work on graduated program
4. discharged with restriction - returned to work
5. discharged with restrictions -did not return to work
    a. non-compensable permanent restrictions - did not return to work
    b. compensable restrictions - did not return to work - no employer attachment
    c. compensable restrictions - did not return to work - employer attachment
6. did not complete program
    a. worker terminated treatment
    b. primary practitioner terminated treatment
    c. medical investigations related to injury
    d. surgery related to injury
    e. non-compensable issues (surgery, investigations, etc.)
    f. WCB or treatment centre terminated treatment

The following chart displays the percentage of return to work outcomes. These are workers who were discharged and reported as numbers 1, 3 and 4 above.

Figure 49: Percentage of Workers Able to Return to Work (1997 - 1999)



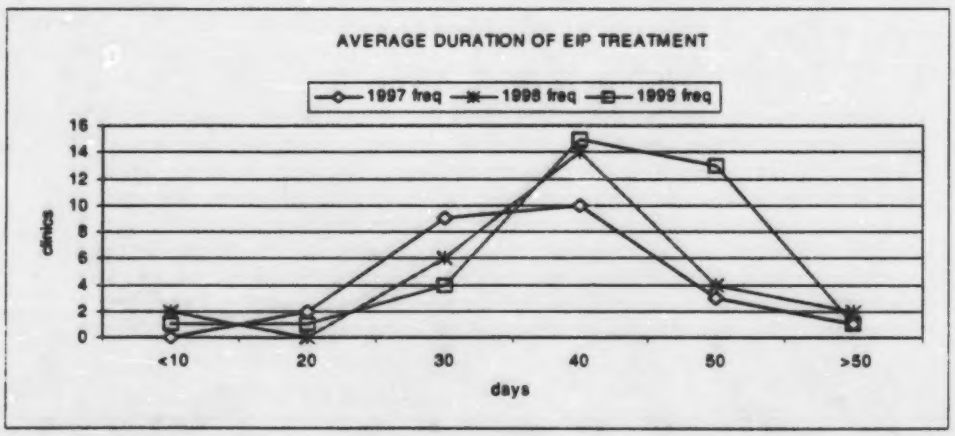
Over the three years of the Early Intervention program the average duration of treatment at the secondary and tertiary treatment centres has gradually increased.

Figure 50: Average Days of Secondary and Tertiary Treatment (1997 - 1999)

	1997	1998	1999
Secondary	31.41	33.54	35.69
Tertiary	46.16	45.81	44.48

Over the three years, there has been a shift toward more secondary and tertiary treatment centres having a longer average treatment time. The following chart correlates the number of clinics with the average number of days of treatment for each year.

Figure 51: EIP Average Days of Treatment



There is no board performance standard for safe and sustained return to work and no systematic follow-up with individual workers. There are no performance and accountability measures for contracted providers of vocational rehabilitation services to injured workers.

The board has an EIP Advisory Committee whose mandate is to develop a system to monitor and evaluate the program and establish and maintain communication among stakeholders. It made a report in November 1999, which is essentially a status review of the recommendations of the 1995 task force.[253]

The only way the Advisory Committee could attempt to gauge the success or failure of the program was to do a sample file review of 75 files. There is no ongoing system in place to evaluate the cost and medical effectiveness of the program for each worker.

4.05 Vocational Rehabilitation

Successive Committees of Review have emphasized the responsibility of the workers' compensation program to mitigate the disabling effects of injury by assisting an injured worker to return to employment, to restore the earning capacity of the injured worker and to improve the earning capacity of a dependant spouse. It was a major theme in 1992 when the Committee said "Rehabilitation and retraining form the foundation of the workers' compensation system."[254] Vocational rehabilitation was to be an effective substitute for estimating future earning capacity in unrealistic or unavailable occupations or jobs.

Amendments to the statute in 1993 introduced a definition of "vocational rehabilitation." The objective of vocational rehabilitation is to return the worker "to suitable productive employment." The statute tells the board it may not terminate or reduce payment of compensation until:

> "... in consultation with the worker, the board has designed and provided to the worker, at the expense of the board, a vocational rehabilitation program, and the worker has been allowed a reasonable time to obtain employment after completing the program."[255]

The board has no published policy on vocational rehabilitation and no comprehensive initiatives in its current policy agenda. The board has an unpublished draft training manual for its employees that has not been distributed. Its focus is administrative procedures and was last revised January 6, 2000.

Prior to 1995, all claims over a thirteen-week duration were referred to vocational services. Since 1995, only those workers identified by the CSRs as requiring

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[253] *Report of the Early Intervention Program Advisory Committee* (November 1999).
[254] *A Report of the Workers' Compensation Act Review Committee, August 1992*, p. 9.
[255] ss. 115, 2(s.2) "vocational rehabilitation" and 104(4)(b)(ii) and (iii).

vocational rehabilitation assistance have been referred. CSRs are given very general criteria for the timing and eligibility for referral in their training manual.[256] Not all referrals are for return to work services. Some are for estimated earnings capacity reports.

If an injured worker is sent through the Early Intervention Program and the final report is that he or she can return to work without restrictions, then there is no referral. The unwritten assumption is that there cannot be restrictions with strains and sprains. The number of referrals to Vocational Rehabilitation Services has declined since 1995.

Figure 52: Referrals for Vocational Rehabilitation Services (1990 - 1999)

1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
1301	1311	1377	1550	1119	806	719	700	594	761

Prior to 1995, all files over 13 weeks duration were automatically referred to Vocational Services. Beginning in 1995, only files identified as requiring vocational services were referred.

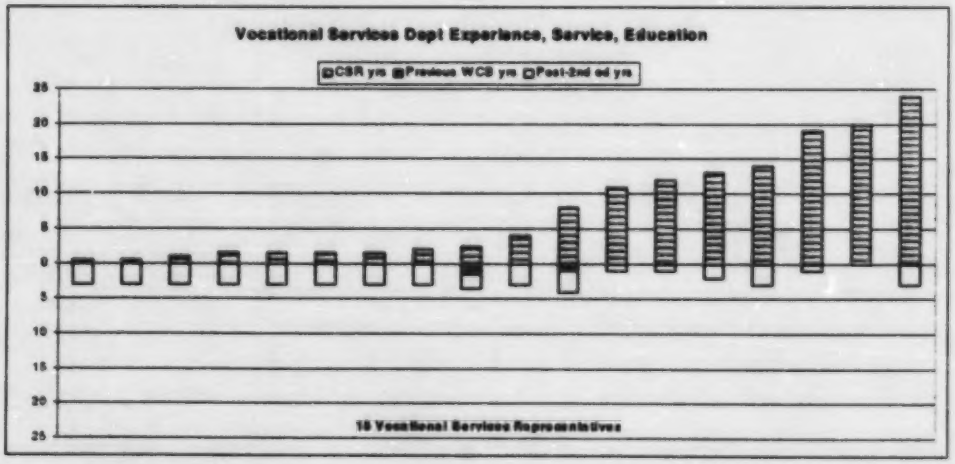
The number of estimated earnings capacity reports has also declined over the decade.

Figure 53: Estimated Earnings Capacity Reports - Vocational Services (1990 - 1999)

1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
296	258	220	183	111	196	171	235	164	170

The board employs eighteen Vocational Services Representatives as part of its Client Services Division. They report to a Manager - Vocational Services.

Figure 54: Vocational Services Representatives Experience, Service and Education



[256] *Client Service Representative Training Manual*, Module 15, Class 17.3.

Vocational rehabilitation services are individualized services to injured workers with a wide variety of backgrounds, needs and impairments. The board's return to work approach employs a five phase exploratory model.

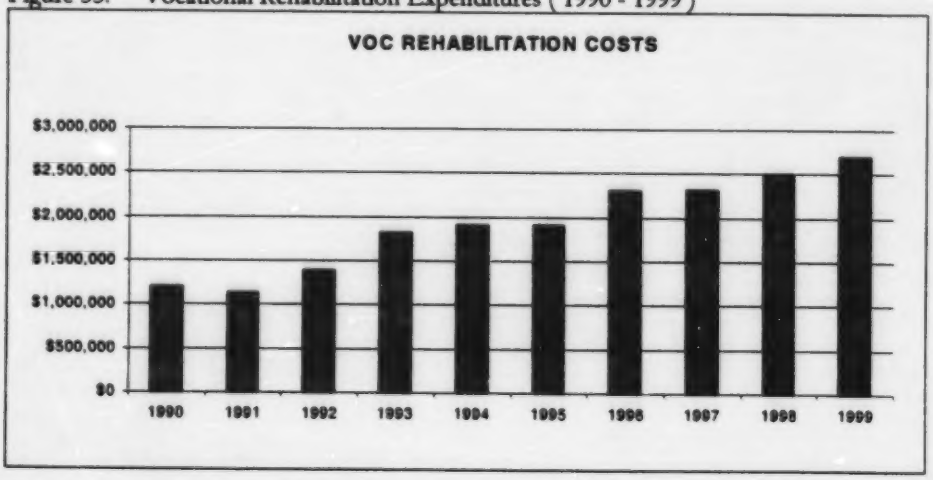
1. Return to work at the same job with the accident employer.
2. Return to other work with the accident employer.
3. Return to work in the same or related industry.
4. Return to work in any occupation utilizing the worker's skills, interests and abilities.
5. Return to work after developing new occupational skills.

The board places emphasis on the accident employer's duty to accommodate an injured worker. The board itself employs thirty employees who were injured workers at the time of hiring.

Through the Prevention, Safety and Return to Work Unit, the board has produced educational material to facilitate return to work with the accident employer through the adoption of a policy and establishment of a return to work team or committee.[257] Since 1995, this Unit has held return to work workshops attended by over 1500 people.

Some of the assistance the board provides are: counselling, career planning, vocational assessment, assisted job search, home or workplace modification, technical aids, personal care and training. There is no monitoring for success or effectiveness. During the past decade, the board has not appreciably increased expenditures on vocational rehabilitation.

Figure 55: Vocational Rehabilitation Expenditures (1990 - 1999)



[257] See the board's publications "Return to Work", revised March 3, 1999; "Your Return-to-Work Program"; and "Vocational Service", June, 2000.

5. OBSERVATIONS AND RECOMMENDATIONS

These observations and recommendations are principally directed to matters within the Minister's sphere of responsibility as the minister responsible for *The Workers' Compensation Act, 1979,* or as a legislator. For this reason, there is an emphasis on accountability mechanisms, which will direct the board toward a results orientation.

Except for the office of the Worker's Advocate, the Minister's sphere of responsibility does not include operational matters. I make one recommendation with respect to the operation of the office of the Worker's Advocate. The Worker's Advocate should have electronic access to the board's complete electronic claims files, including any notes to file by various board personnel. Technical issues of remote access and security should be easily resolved. The benefits for the operation of the office of the Worker's Advocate and the efficiencies for the system are obvious.

5.01 Solid Financial Foundation Has Been Established

In recent years, the board has paid for improved survivor benefits. It has absorbed large actuarial adjustments and increased medical and other per claim costs. It has undertaken new initiatives and increased expenditures on administration.

During the same time, the board has secured future benefit payments for currently injured workers. Unprecedented investment income has enabled the board to bank healthy reserves. There is no need to significantly increase reserves beyond the levels set in the board's funding policy.

If the board continues to earn high investment income, if assessable payroll continues to expand and if overall claims experience and benefit costs do not increase dramatically, employers will continue to receive surplus rebates and have low net assessments. This climate poses opportunities and challenges for the board.

The board can open access to discretionary benefits, as it did with its new policy on eligibility for independence allowances. It can continue its practice of setting provisional assessments rates in the fall, based on claims experience, and rebating any surplus in the spring arising from investment returns. This practice lessens the risk of rate shock, but runs the risk of rebate expectations not being met when market earnings recede. It also masks the current low cost of workers' compensation for employers, who do not understand the provisional rate setting methodology or the reason for the surplus rebate they receive.

Alternatively, the board can reduce provisional rates based on an increased discount rate that assumes more optimistic investment returns. In the further alternative, it can adopt a form of market segmentation and set different provisional rates for different industries, such as the public and private sectors. Should the board set rates for

taxpayer funded employers which will likely result in rebates to the same or other taxpayer funded employers?

The board could follow any combination of these options. The least risk course for the board is to the one it has chosen for the past three years – declining Fall provisional rates and Spring rebates, both of which may be viewed by many as signs of successful program administration.

5.02 Some Significant Challenges Have Been Faced

In recent years, the board has responded to several significant challenges.

It identified and disclosed problems with past actuarial assumptions. Although the provincial government took intervening action, the board accepted the recommendations of the Neville Report and followed through with a new rate setting approach.

The board responded to the crisis in the Injured Workers' Program at Wascana Rehabilitation Centre by fostering the growth of secondary and tertiary assessment teams and treatment centres across the province.

At the urging of the Provincial Auditor, the board has restated its financial statements.

The board has opened new avenues of communication and dissemination of information to workers, employers and their representatives. It began Fall rate setting and Mid-Year Review meetings. Further experimentation with the annual general meeting format and an expanded list of invited stakeholders will contribute to a communication forum that fosters dialogue. Annual reports are more informative, although the board still shies away from discussing failings or frailties. The annual Compensation Institute and regular Compensation Reporter newsletter are sustained efforts to reach out to the community.

Through the new Prevention, Safety and Return-to-Work unit, the board has demonstrated a commitment to public education to lessen risk in the workplace and to prepare workplaces for the return of injured workers. Through its website, pamphlets, booklets, books and other publications, the board has championed the workers' compensation program and its many components.

5.03 Policy Directives – Many Are Not Available to the Public

The board has a statutory duty to make all of its policy directives available to the public. However, there are numerous unpublished resources referred to and used by board employees as the basis for decisions.

The board ought to make a determined, focused and priority effort to compile and publish all of its policy statements, practices and procedures used by its employees for the basis of decisions pursuant to the statute.

5.04 Policy Making – Systematic, Proactive Approach Needed

Administrative tribunals making decisions with legal effect must have published standards, such as policy directives, to ensure like cases are treated alike by initial, reviewing, and appellate decision-makers. If there is an absence of clear, universally applied standards, decisions within the organization will be made by reference to personal or managerial bias, or occupational lore.

There are significant gaps in the board's published policy directives. For example, there is virtually no published policy on vocational rehabilitation.

The board ought to pursue a systematic, proactive approach to making a comprehensive set of policy directives.

5.05 Highly Individualized Decision-Making Requires Special Attention

The board has adopted an early intervention and case management approach to claims adjudication and oversight. It is undertaking initiatives to improve its processes to expedite decision-making. The challenge is not to sacrifice equity for individuals in the pursuit of system efficiency.

The board has a high duty to ensure it is communicating most effectively, making the most thorough inquiries and making the best decisions for injured workers who require individualized attention. These injured workers should receive individualized attention from adjudicators with experience and expertise who serve them within structured processes that include the workers and their families. The workers' compensation program must not fail this small, but needy, percentage of individuals who come to the board, or must return to the board, for help.

The board has not segmented the difficult individualized decision-making required for the most complex issues and situations to receive individualized attention, experience and expertise within more carefully structured processes.

Optimum outcomes for the workers' compensation program will be best achieved by decision-making processes requiring peer or team consultation on pending decisions; full advance disclosure of all information on which the decision is intended to be made; and face to face meetings with workers and their families before making and communicating the decisions. There were elements of this approach in the 1988 Earnings Replacement Policy and the operation of the Earnings Replacement Division until it was disbanded in 1994.

The board should consider adopting processes, procedures and administrative structures, which provided more attention, experience and expertise to complex claims requiring highly individualized decisions.

5.06 An Independent Appeal Tribunal For Individual Decisions

The board is a quasi-judicial administrative tribunal. Workers and employers must go to the board. They cannot go to the courts and the independent judiciary. There is no administrative appeal tribunal separate from the persons governing and administering the workers' compensation program.

Through its internal processes, Board Members, members of the Appeals and Assessment Committees, managers and initial decision-makers are dedicated to providing an unbiased review of prior decisions. Like other organizations, which adopt formal or informal processes staffed by units of full or part-time employees, the board wants to be self-correcting.

Over the years, Committees of Review have resisted establishing a separate appeal tribunal. They repeatedly expressed the hope that other measures would respond to the complaints they heard and the problems they identified. The complaints and problems persist and the times have changed.

The prevalent, contemporary public expectation in the administration of justice is that aggrieved individuals will be able to appeal to someone free to decide conflicts according to procedurally fair rules without restraint, control or influence from outside forces or fear of reprisal. Self-correcting avenues of review by the same body – which made the original decision – do not meet contemporary public expectations.

An independent avenue of appeal to an administrative appeal tribunal is more likely to provide – and appear to provide – individual justice. An independent administrative appeal tribunal does not jeopardize the principle of exclusivity of the workers' compensation board's jurisdiction outside the courts. An independent appeal avenue enhances fairness and transparency and contributes to board accountability through the publication of appeal decisions.

It is time for the Saskatchewan workers' compensation program to include an independent avenue of appeal for individuals aggrieved by decisions of the board. A review and re-adjudication process within the board like the current Appeals Committee can be maintained, perhaps as a mandatory step before initiating an appeal.

Whether the separate appeal tribunal is organizationally internal or external from the board, the critical character is that it is independent and autonomous from control and pressure by the persons governing and administering the board. Because there

are fewer issues of perceived and actual independence if the appeal tribunal is external, this is the better option.

There must be a good working relationship between the board and appeal tribunal. A formal or informal reporting relationship will assist. A mandatory, periodic public reporting by the board on implementation of appeal decisions should be considered. Several routine administrative justice issues for administrative tribunals, such as appointment, funding, procedure, accountability and reporting, will have to be decided.

There should be a broad scope of appeal on any final board decision with authority in the appeal tribunal to substitute its decision for the decision of the board. The appeal tribunal should be inquiry focused and operate informally. As a principle, appeals should be decided after an oral hearing unless the worker or employer waives the right to a hearing. Hearings should be held in communities close to the worker and employer. Decisions should be available to the public. They can be written or published in a way to maintain the privacy of the individuals.

The appeal tribunal will make findings of fact and interpret and apply the statute, regulations and board policy directives. The appeal tribunal should have the authority to decide whether a board policy directive is unlawful under the statute or in its application in a specific way or circumstance. The appeal tribunal should not make policy directives for the board. That should remain the responsibility of the Board. Policy making competition between appeal tribunals and workers' compensation Boards is a recurring theme in their relationships in other jurisdictions. There is now enough experience in Canada for this issue to be specifically addressed in legislation creating the appeal tribunal.

5.07 Governance – Complete the Transition to Independent Oversight

The most significant recent event in the administration of the board was the adoption of a corporate model of executive leadership and the recruitment of senior and middle management with general managerial skills, not necessarily workers' compensation expertise or experience. Under executive leadership, the board has focused on an agenda of organizational change and renewal. The Board members have consciously restricted themselves to being a governing, policy making and appeal decision-making body.

With the creation of a separate appeal tribunal, the transition to governance by a body of part-time, independent, representative directors or governors should be completed. Its composition should reflect the historical role of organized labour and employers in oversight of workers' compensation.

The independent governing body does not control the organization. It approves and monitors the board's mission, vision, values and strategy. It monitors the control

exercised by management. It defines responsibilities, appoints, evaluates and dismisses the CEO. It oversees external communications. It evaluates its own effectiveness.

The board's governing body will also make policy guiding the interpretation and application of the statute. This "legislative" function is foreign to most boards of directors and requires careful attention. The policy agenda, preparation and presentation to an independent governing body will challenge management. It must develop options, effectively consult with stakeholders and those who will administer the policy and present proposed policy to persons not expert in workers' compensation issues together with management controls which can be monitored by the governing body.

5.08 Governance – Complete a Framework

Until a decision is taken to create an appeal tribunal and install a structure of independent governance, there is a pressing need to define and publish the roles, responsibilities and relationships of the Minister, Chairperson, Board Members, Chief Executive Officer and Executive and Senior Management within the current structure.

At present, there are too many blurred lines and a lack of clarity in delegation and authority. This is a source of great frustration for senior board management members who are unsure what commitments and decisions they and others can make. Others within and outside the board know, or sense, the uncertainty.

The lack of clearly delegated authority sustains silos within the organization. It does not engender an environment in which there is an incentive or need for senior managers to learn the business beyond their silo. The lack of clearly delegated authority impedes the ability of senior management to develop as a team and make cross-functional decisions. It is a barrier to senior management and the organization realizing their potential.

By constituting themselves as a policy board, not a management board, the Board members have separated themselves from daily administration. Yet they retain ultimate control and responsibility. This has engendered confusion and tensions within the board that are not necessarily creative. The Board members should complete the transition by putting in place an effective governing framework.

Even though the number of persons involved is small, a governance framework is crucial for success and succession at the board. An effective governance framework is more than a legislative definition of the structure of the board and defining roles, responsibilities and relationships. It includes other supports for objective and independent stewardship of the board.

An effective governance framework will include the orientation and training of new members, standards of conduct, effective meeting and decision-making processes, strategies and controls for risk and liability and methods for evaluating and publicly reporting on their collective performance.

5.09 Management Information – Compliance and Performance Measurement

Information is the sustenance of management. Without it, it is impossible to make informed decisions and provide informative reports. Without it, it is impossible to publish performance or support or debunk any pronouncement about the board's performance.

On key and recurring questions of concern in the administration of the statute, the board does not monitor or is unable to produce compliance performance information. When and how often does it suspend benefits, or decide to apply the benefit of the doubt? When and how often does it determine there is a pre-existing condition? Is it conducting itself according to its stated values?

The board collects data and calculates a number of statistical measures. It has no formal, ongoing performance and evaluation process. There is little information about operational performance. Is it achieving in each program element what it intends and at what cost? There is little ability to make meaningful comparisons with other boards.

The board is unable to provide a complete, integrated picture of its administration. The board's auditors attest to the accuracy of the financial information. Many within the board do not accept the accuracy of much of the non-financial information. From the front line managers to the Board members, there is a frustration over the absence of meaningful operational performance information.

Performance information enhances accountability and enables evidence-based decisions. It enables identification and adoption of best practices. The information and indicators selected should be relevant, complete, accurate, timely and cost-effective. The measurements can be inputs, outputs, efficiencies, outcomes and client satisfaction. Some of the outcome indicators can be immediate, such as the status of workers at discharge from a treatment centre. Some can be intermediate outcomes, such as actual return to work with restrictions. Some can be ultimate outcomes, such as safe and sustained return to work. Outcome measures can be linked to the promised or intended results and the resources used to achieve them.

Appeals, Ombudsman complaints and seeking assistance from the Worker's Advocate are unintended effects. They are not necessarily measures of board performance. Some indicators have to be carefully considered for their relevance as measure of performance. Examples are the average percentage of personal functional impairment or the disallow rate.

The board needs to identify the key compliance and performance information it needs to plan, monitor and correct the board's performance. It needs to put in place a compliance and performance information system.

5.10 Governance Information

Current, high quality information is essential for effective governance. Without it, the Board members do not have the tools to monitor and assess whether the board is advancing its mission and vision or behaving according to the intended values or achieving its strategic plan and so on.

A thorough and clear understanding of past and current performance is essential to be able to look ahead and then look back to see if what was promised or intended was achieved.

The board is currently unable to provide the quality of information required for good governance. The management does seek to present analysis, options, projected outcomes and plans for evaluation in policy proposals presented to the Board members for approval.

The board should provide compliance and performance information in its annual report to the Minister that enables the Minister to measure immediate past performance against legislative intention and previously stated targets. The report should provide other information that assures the Minister that good governance practices are in place at the board. One example is that the governing body has established key performance goals and objectives for the CEO and is evaluating performance against those goals and objectives. And that the CEO, in turn, is evaluating senior management. The report should identify emerging issues.

The management administers the board. The governing members of the day make policy and govern the board. The Minister of the day discharges ministerial responsibility by requiring the Board members or other governing body to demonstrably assure the Minister that all the responsibilities of good governance are being fulfilled. The precise governing responsibilities should be discussed and agreed between the Board and Minister.

5.11 Strategic Plan Needs Implementation Plan

The board is required by regulation to provide information annually to the Minister and community on its strategic plan. The existing plan does not give a clear picture of what the board will look like in three to five years.

The board is seeking to strengthen the capabilities of the organization, shape the culture and budget to support the strategy. There are other things that have to be done such as an integrated information system.

A strategic plan requires an accompanying implementation plan to translate the intentions into action and fill the gap between the intentions and the results. The board should produce a plan with measurable targets to do the things that implement the strategic plan. This is not just an improvement plan. The focus must be placed squarely on measurable results, not best efforts. For enduring commitment, the plan must be the product of the management and leadership team of the board, not consultants.

5.12 Vocational Rehabilitation

Recent legislative changes placed an emphasis on the board providing vocational rehabilitation programs to workers. To date, it is not identified as a specific part of the board's mission and little attention has been devoted to it in the board's annual reports, annual meetings and report to the Minister.

The number of referrals to the board's vocational rehabilitation services has decreased and the expenditures on vocational rehabilitation have been relatively static. There is no published policy on vocational rehabilitation. The relationship between the Client Service Representative and the Vocational Services Representative and the worker's place in decision-making requires attention.

This part of the board's mission requires more attention.

■■■

APPENDIX A Workers' Compensation Board Staff Interviewed

Ted Nordal,	Manager, Claims Administration
Ernie Hinck	Manager, Client Services Unit B
Allan Basnicki	Manager, Client Services Unit C
Ken Dusselier	Manager, Client Services Unit D
Paul Diggins,	Senior Policy and Systems Officer
Rhonda Gilmore	Manager, Employer Accounts
Lorraine Schick	Assistant to Director, Client Services
Carol Bowers	Client Services Representative, Claims Administration
Catherine Best	CSR -Clerk IV, Claims Administration
Lucille Wiebe	Registry / Statistics Clerk, Claims Administration
Sherry Yasinski-Smith	Adjudication Team, Client Services
Sylvia Tarasoff	CSR, Unit B
Taya Christidis	CSR, Unit D
Sandie Fraser	VSR, Vocational Services
Jeff Dirksen	Clerk IV Coordinator, Client Services
Debbie Medley	Health Care Facilitator, Health Care Services
Debbie Weeres	Claims Clerk IV, Financial Services
Jean Sentes	CSR, Peer Group
Dave Bird	CSR, Client Services Unit D
Dawn Wilson	Assistant Assessment Officer, Revenue and Employer Accounts
Cheryl Turgeon	Assessment Clerk I, Revenue and Employer Accounts
Ruth Seidlitz	Assistant Assessment Officer, Revenue and Employer Accounts
Keith Fink	CSR, Client Services, Unit D
Rick Nelson	Appeals Officer, Appeals Committee.
Bruce MacLeod	Training and Development Officer, Human Resources
Peggy Bro	Employee Relations Administrator, Human Resources
Greg Honey	Director, Human Resources
Daryl Davies	Director of Business Process Simplification
Bruce Wilde	Business Process Simplification Team
Jennifer Langen	Business Process Simplification Team
Lynn Kuffner	Director, Client Services
Bonnie Hender	Manager, Prevention, Safety & Return to Work Unit
Mitchell Scott	Director, Program Evaluation and Internal Audit
John (Jac) Quinlan	Manager, Vocational Services
Ernie Bodnar	Vocational Services Coordinator, Saskatoon
Jacqueline Ross	Employment Specialist, Vocational Services, Saskatoon
Vince Fedorowich	Vocational Services Representative, Vocational Services, Saskatoon
Marilyn Reddekopp	Vocational Services Representative, Vocational Services, Saskatoon
Patrick Kazuska	Vocational Services Representative, Vocational Services, Saskatoon

Rob Black	Director, Information Technology Services
John Gerber	Policy & Project Analyst, Corporate Policy and Program Development
Dr. Ed Poon	Manager, Medical Services
Dave Hodges	Director, Claims Administration
Don Seidlitz	Assistant to the Board (temporary)
Andre Gelinas	Appeals Officer, Appeals Committee
Janice Seikawitch	Director, Planning, Research & Communication
Gail Kruger	Vice-President, Budget and Finance
Jim Kempling	Vice-President, Client Services
PC Consul	Vice-President, Human Resources, Technology and Corporate Support
Peter Federko	Chief Executive Officer
Darlene Light	Board Member, Worker Representative
Norm Brown	Board Member, Employer Representative
Stan Cameron	Chairman

APPENDIX B Interested Parties Interviewed

Jim Fergusson,	President and Chief Executive Officer ,Saskatoon Health District
Brian Morgan	Vice-President, Human Resources, Saskatoon Health District
Jim Saunders	President and Chief Executive Officer, Regina Health District
Valerie Lusk	Director of Finance, Regina Health District
Jeannine Brown	Acting VP / Integrated Services A, Regina Health District
Martin Zip	Chair of Labour Cmmittee, North Saskatoon Business Association
C.D. Gitzel	C-M Consulting, North Saskatoon Business Association
Peter Susa	United Steelworkers of America
George Rosenau	Manager, Office of Workers Advocate
Marilyn Braun	Executive Director, Canadian Federation of Independent Business (Saskatchewan)
Wes Norheim	Past WCB Board Member (worker representative)
Jacquie Griffiths	Chairperson, Saskatchewan Federation of Labour – OHS and WCB Sub-Committee
Garnet Dishaw	Research and Communications Director, Saskatchewan Federation of Labour
Walter Eberle	Staff Representative, Grain Services Union
Chris Banting	Secretary-Treasurer. RWDSU Joint Board
Brian Dojack	Union Representative, Local 446, American Federation of Musicians
Pat Stuart	Union Representative, Saskatchewan Union of Nurses
Diane Swanson	Service Employees International Union, Local 336
Isabelle Estabrooks	Service Employees International Union, Local 336
Carl Veistrup	Saskatchewan Government and General Employees Union (SGEU)
Doug Kovatch	Woloshyn & Company, Regina
Alex Taylor	Board Member, Western Injured Workers Society (Saskatchewan)
Robert Lindsay	Board Member, Western Injured Workers Society (Saskatchewan)
Xavier Eastman	President, Western Injured Workers Society (Saskatchewan)
Theresa Charpentier	Voice of Blue Rose Advocacy, Inc.
Debbie Berthelot	Voice of Blue Rose Advocacy, Inc.
Dr. Dennis Kendel	Registrar, Saskatchewan College of Physicians and Surgeons
Louise Simard	Chief Executive Officer, Saskatchewan Association of Health Organizations
Doug Pawson	Director, OHS Services, Saskatchewan Association of Health Organizations
Bill Johnson	Executive Director, Saskatchewan Construction Safety Association (SCSA)
Garth Ivey	Board member, Saskatchewan Construction Safety Association, Construction Opportunities Development Council, IBEW
Walter Plaviak	Past Chair of SCSA, Coram Construction, Regina
Dave Reddekopp	Vice-Chairman of SCSA, State Services Group, Regina
Malcom Beug	Board member, Alford Floors and Interior, Regina

Mike Carr	Saskatchewan Chamber of Commerce – Chairperson, Labour Committee
Karen Smith	Saskatchewan Chamber of Commerce. Director of Employee Benefits for Saskatchewan School Trustees Association.
Rick Laferriere	Saskatchewan Chamber of Commerce, Research Coordinator
Jeff Parr	Director, Occupational Health and Safety Branch, Department of Labour
Graham Mitchell	Executive Director, Labour Standards, Department of Labour
Fred Wendel	Provincial Auditor (Acting)
Karim Pradhan	Principal, Office of Provincial Auditor
Bashar Ahmad	Executive Director, Office of Provincial Auditor
Barbara J. Tomkins	Provincial Ombudsman
Murray Knoll	Deputy Ombudsman
Gordon Mayer	Legal Counsel, Office of Provincial Ombudsman
Kerry MacDonald	Ministerial Assistant, Minister of Labour
Margaret Woods	Ministerial Assistant, Minister of Labour

APPENDIX C Chief Executive Officer Job Description

Reporting to the Board, the CEO is the Chief Administrative Officer of the organization and as such is responsible for all aspects of day-to-day management.

Accountable to the Board, the CEO is responsible for leading the organization and for implementing Board Decisions, including the corporate strategy adopted by the Board.

The CEO is accountable for providing leadership, direction and control that will create an environment for the effective and efficient operation of all programs, policies and legislation related to the mandate of Workers' Compensation. The CEO is accountable for directing the development of short and long-term organizational plans and goals consistent with the Board's mandate, strategic vision and operational strategies.

Major Responsibilities

1. Implements the general policies established by the Board and oversee the development of specific policies, procedures and programs to ensure they are effectively and efficiently administered in a way that meets the goals and directions established by the Board.

2. Oversees development of and presents to the Board for approval new and amended Board policies, business plans and financial objectives, operating expenditure estimates and budgets. Oversees preparation of and presents performance and progress reviews on a regular basis to ensure that the Board is kept fully informed on the financial and policy issues and all significant factors impacting by stakeholders.

3. Through consultation with the executive management team, directs the development of criteria for measuring the progress and performance of the Workers' Compensation Board (WCB) by business areas against targets. Establishes an organizational and management structure to facilitate the accomplishment of Workers' Compensation Board's objectives, policies and plans for approval by the Board.

4. Leads and influences the development and maintenance of WCB's position and reputation within the private sector (employer and labour); the provincial, federal, provincial and municipal governments and with various other interest groups through direct and indirect contact to ensure that opportunities for success of the Agency's affairs and activities are maximized.

5. Develops and maintains positive and productive relationships with provincial, federal and municipal government officials at the appropriate political and administrative levels.

6. Provides personal leadership that encourages the WCB to be a leader in the reinforcement of ethical business practices, responsive both to the needs of the employer and the injured worker.

7. Directs the development of a sound financial management program and related controls including procedures to monitor the management of the board's assets and liabilities, the proper disposition and recording of financial transactions to the third parties and the running of an effective financial operation.

8. Reviews and recommends general compensation levels and programs through consultation with the Board.

9. For purposes of Section 20(1) of the *Workers' Compensation Act, 1979*, shall perform and be responsible for all functions contemplated as Executive Director and Chief Administrative Officer of the Board.

APPENDIX D WCB Stress Questionnaire

Please answer the questions and provide the information requested below:

1. What formal education do you have, and where was it obtained?
2. Give a brief history, commencing with your first employment, the approximate time and dates spent at each employment thereafter, and a brief summary of responsibilities at those places of employment.
3. How long were you with your present and/or last place of employment?
4. What was your position at the time of your illness?
6. Provide a complete description of job duties and responsibilities you performed in this position. Note any changes that may have occurred during this time that you feel caused this injury. Please describe in full what occurred and how it affected your job performance.
7. Describe, as comprehensively as possible, what you feel brought on your stress.

Personal Feelings

1. Did unexpected noise or interruptions upset you?
2. Do you feel you had no control concerning your work life?
3. Did you feel you were able to cope with, and had the proper backing from your employer for you to perform your work duties? Please describe.
4. Did your home responsibilities interfere in any way with your work responsibilities?
5. Did you lack confidence in your ability to handle any part of your work responsibilities?

Hours of Work

1. What hours did/do you work?
2. Do you feel they are/were excessive?
3. Did you like those hours?
4. Did you hours of work fit in with your family responsibilities, or did they interfere?
5. Did your hours of work cause you to miss social or family events?

Physical Symptoms

(a) Headaches
(b) Chest pains
(c) Cold hands
(d) Chronic fatigue
(e) Stomach upset
(f) Chronic backache
(g) Muscle tension

If you have experienced any of the above, when and what do you feel caused these symptoms to strike?

Behavioural Symptoms

1. (a) Difficulty sleeping
   (b) Irritability
   (c) Wanting to be alone
   (d) Loss of appetite
   (e) Overeating
   (f) Sexual problems

2. Do you have any medical problems or conditions which may bring on any of the above physical or behavioural patterns, rather than stress at work?

Possible Causes of Stress

1. Did you, or do you, fear the loss of your job?
2. Do you feel you could handle your job?
3. Has there been any change in your job duties or responsibilities?
4. Has there been any change in your job hours?
5. Do you have any difficulties in coping with, or working for, any of your supervisors?
6. Do you have any problems with your employer?
7. Do you have any problems working with any of your fellow employees?
8. Are you, or were you, experiencing any type of sexual harassment in your work place?

Financial Situation

1. Are you and your spouse able to meet your financial obligations?
2. Is there anything involving your personal finances that are causing you deep concern or stress? If so, please explain.

Personal Causes

1. Is this your first marriage?
2. How long have you been married to your present spouse?
3. Do you have any children from this marriage?
4. Are there any personal problems in your marriage that have been causing stress or anxiety, such as divorce or separation?
5. Is there any suspected infidelity by either marriage partner?
6. Does your spouse or any of your children experience any health problems?
7. Have there been any recent deaths or sudden illnesses to any close family members?
8. Have any of your children been involved in alcohol or drug abuse difficulties?
9. Are any of your children experiencing a dependency problem at this time?
10. Have there been any court appearances or problems with police authorities?

Spouse

1. Is your spouse employed?
2. If so, where and what is KEYBOARD(his/her) job?
3. Is K.EYBOAR.D(he or she) experiencing any difficulty with KBYBOARD(his or her) employers or co-workers?

4. Does KEYBOA.RD(his or her) employment cause KEYBOARD(him or her) any stress?
5. Does KEYBOARD(he or she) have any fear of losing KEYBOARD(his or her) job? If so, please describe.

Family History

1. Have you ever experienced stress problems prior to this illness?
2. Have you ever been treated by a psychiatrist, psychologist or medical practitioner for stress prior to this incident?
3. Is there a history of mental breakdown within the family?

Activities in Outside Organizations or Time Off

1. Are you active in any social organizations? If so, which?
2. Are you active in sports?
3. Are you active in any church or church organizations?
4. Are you active in any union, and do you hold a position of authority or responsibility within that union?
5. Do you use your vacation and days off for periods of relaxation?
6. Do you work overtime to make extra monies? If so, is this frequent?

Please answer the above questions and return to our office in the enclosed envelope as soon as possible. The questions you have replied to are kept confidential, but are needed and required in order to properly adjudicate your claim.

Sincerely,

KEYBOARD(CSR)
Client Service Representative[258]

[258] Word Pro Letter stresslt in "Smartmasters - Client Services" Update January 11, 1999.

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APPENDIX E Policy Review Status

#	Topic	Priority Code	Status	Request Date	Submitted to CEO	Returned	CEO/ Board Approval
23	Personal Care Allowance	0	Board Decision made -#POL (TBA)- signed August 28/00	12/31/95	8/10/00		8/28/00
170	PFI - Raynaud's Phenomenon	0	Board Decision made-POL (TBA)-signed August 28/00	11/16/99	8/9/00		8/10/00
133	Return-to-Work Plan - Spouse (new title)	0	Board Decision made-# PRO (TBA) signed August 28/00	5/12/99	7/26/00		8/4/00
67	Return-to-Work Plans by Vocational Services	0	Executive Decision made - PRO54/2000 - signed Jul 20/00	6/30/98	6/26/00	3/13/00	7/12/00
197	Allowance - Temporary Additional Expense (Child Care, etc.)	0	Executive Decision made - PRO04/2000 - signed Jul 18/00	7/6/00	7/6/00		7/6/00
22	Incidental Incursions	0	Approved in principle (POL03/2000. June 6/00)- pending detailed communications plan	1/31/98	5/26/00	5/9/00	5/29/00
191	Changes to Actuarial Assumptions for 1999	0	Board Decision made - ADM08/2000 - signed approx. May 30/00	5/1/00	5/24/00	5/8/00	5/24/00
172	Allowance-Temporary Additional Expense (Child Care, etc.)	0	Board Decision made - POL04/2000 - signed approx June 7	12/15/99	5/23/00		5/23/00
181	Medical Fees - Exercise Therapists, 2000	0	Exec Decision made - PRO53/2000 - signed approx June 12 - annual update	4/10/00			5/17/00
194	Distribution of 1999 Operating Surplus - Revision	0	Board Decision made - ADM07/2000 (signed May 16)	5/9/00	5/11/00		5/11/00
146	No Earnings at Disablement/Death - Policy Amendment	0	Board Decision made - ADM06/2000 (signed May 2)	9/17/99	4/14/00		5/1/00
175	Pre-existing Conditions (Section 50) - Procedure	0	Parent policy (POL01/2000) - see #9; Exec Decision made PRO01/2000; signed Apr 26	4/5/00	4/18/00		4/20/00
188	Microsoft Enterprise License	0	Executive Decision made - PRO51/2000 - signed April 26/00	4/12/00	4/18/00		4/19/00
177	Expenses, Travelling & Sustenance - General	0	Exec Decision made - PRO52/2000 - signed Apr 26	4/10/00	4/18/00		4/19/00
176	Distribution of 1999 Operating Surplus	0	Board Decision made - ADM05/2000 - signed Apr 17/00	4/5/00	4/5/00		4/5/00
9	Pre-existing Conditions (Section 50)	0	Board Decision made - POL01/2000 - signed Apr 3	7/31/96	3/14/00	3/13/00	4/3/00
173	Reclassification of Forest Management License Agreement Holders	0	Board Decision made - POL02/2000 - signed Apr 17/00	12/20/99	3/31/00		3/31/00
150	Procurement Procedure	0	Exec Decision made - PRO50/2000 - signed Feb 4	9/22/99	2/1/00		2/1/00
47	Return-to-Work Plan Expenditures	0	Board Decision made - ADM04/2000 -signed Feb 17-distributed to Exec with #67 Aug 4/00	6/11/98	1/28/00		1/31/00
168	Budget - 2000, Approval of	0	Board Decision made - ADM01/2000 - signed Jan 31/00	11/2/99	1/20/00	1/16/00	1/11/00

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#	Topic	Priority Code	Status	Request Date	Submitted to CEO	Returned	CEO/ Board Approval
107	Inclusion of Former Procedure in Policy	0	Board Decision made - ADM03/2000 -signed Feb 17	1/11/99	2/3/00	1/19/00	1/10/00
157	Classification of Industries & Provisional Premium Rates	0	Board Decision made - POL16/1999 - signed Jan 31/00	11/2/99	12/23/99		12/31/99
119	Medical Fees - Hospital Out Patient & Hi Cost Procedures	0	Exec Decision made - PRO64/1999 - signed Jan 5/00	3/31/99	12/23/99		12/23/99
120	Medical Fees - Hospital Per Diems	0	Exec Decision made - PRO65/1999 - signed Jan 5/00	3/22/99	12/23/99		12/23/99
163	Annual CPI (includes #159-162,164-166)	0	Exec Decision made - PRO63/1999, signed Dec 21	11/2/99	12/17/99		12/21/99
149	CEO Authority for Procurement Policy	0	Board Decision made - ADM02/2000 - signed Jan 31/00	9/22/99	12/15/99		12/20/99
135	Injuries, Travelling in Return-to-Work Programming	0	Board Decision made - ADM02/1999 - signed Jan 31/00	5/12/99	12/22/99	12/22/99	12/20/99
171	Second Injury & Re-employment Reserve - Procedure	0	Procedure for #33 - Exec Decision made - PRO14/1999, signed Dec 14	12/10/99	12/14/99		12/14/99
152	Maximum Wage Rate, 2000 - Section 38	0	Board Decision made - POL15/1999 - signed Dec2	11/2/99	11/30/99		12/6/99
153	Minimum Employer Personal Coverage - 2000	0	Board Decision made POL12/1999 - signed Dec 2	11/2/99	11/26/99		12/2/99
156	Penalty, Default in Assessment Payment	0	Exec Decision made - PRO62/1999 - signed Dec 2	11/2/99	12/2/99		12/1/99
167	Maximum Assessable Wage Rate	0	Board Decision made - POL13/1999 - signed Dec 1	11/2/99	11/26/99		12/1/99
154	Minimum Compensation, 2000 - Section 76	0	Exec Decision made - PRO61/1999 -signed Dec 1	11/2/99	12/1/99		11/30/99
155	Minimum Average Weekly Earnings, 2000 - Section 70(5)	0	Exec Decision made - PRO60/1999 - signed Dec 1	11/2/99	12/1/99		11/30/99
33	Second Injury & Re-employment Reserve	0	Board Decision made - POL14/1999 - signed Dec 1	4/30/98	11/22/99		11/29/99
151	Expenses, Travelling & Sustenance - General	0	Exec Decision made - PRO59/1999 (signed Oct 22)	10/21/99	10/21/99		10/22/99
141	Industry Classification - M91	0	Board Decision made - POL11/1999 (signed Oct 20)	5/25/99	10/12/99		10/12/99
37	Disaster & Occupational Disease Reserve	0	Board Decision made - #POL10/1999 - actually signed Sept 2/99	5/31/98	8/23/99	8/13/99	8/25/99
113	Medical Fees - Chiropractic	0	Exec Decision made - #PRO57/1999 - signed July 19	3/22/99	7/15/99		7/19/99
114	Medical Fees - Occupational Therapists	0	Exec Decision made - #PRO58/1999 - signed July 19	3/22/99	7/15/99		7/19/99
128	Service Fees - Early Intervention Program Providers	0	Exec Decision made - #PRO56/1999 - signed June 29 - effective Aug 1/99	5/5/99	6/29/99		6/29/99
123	Medical Fees - Audiologists	0	Exec Decision made - #PRO55/1999 - signed June 28 - effective Aug 1/99	3/25/99	6/28/99		6/25/99
142	Fatalities, Presumption - Procedure	0	Exec Decision made - PRO09/1999 (see #124 re parent policy) -signed June 28	5/31/99	6/18/99		6/16/99
117	Medical Fees - Psychologists & Counsellors	0	Exec Decision made - #PRO54/1999 - signed June 29	3/22/99	6/14/99		6/11/99

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#	Topic	Priority Code	Status	Request Date	Submitted to CEO	Returned	CEO/ Board Approval
118	Medical Fees - Massage Therapists	0	Exec Decision made - #PRO53/1999 - signed June 8	3/22/99	6/8/99		6/8/99
139	Expenses, Travel & Sustenance, 1999	0	Exec Decision made - PRO52/99 - signed May 27	5/20/99	5/25/99		5/25/99
131	Coverage, Out of Province/Country - Procedure	0	Exec Decision made - PRO08/1999 (signed May 27); cf. #12	5/4/99			5/25/99
116	Medical Fees - Exercise Therapists	0	Exec Decision made - #PRO51/99 - signed May 27	3/22/99	4/12/99	4/20/99	5/25/99
124	Fatalities, Presumption	0	Board decision made - #POL09/1999 (signed May 18; held for CEO review until May 27)	3/29/99	5/17/99	5/13/99	5/17/99
130	Injury, Occupational Disease - Procedure	0	Procedure PRO07/1999 approved by CEO - signed Apr 30 (see #44, re POL07/1999)	4/15/99	4/28/99		4/28/99
12	Coverage out of Province/Country-Sect 34,35,36 (#48/75, #15/	0	Board Decision made - #POL08/1999 - signed May 4	7/31/96	4/7/99	3/29/99	4/21/99
112	Medical Fees - Physical Therapists	0	Exec Decision made - #PRO50/1999 - signed Apr 30/99	3/22/99	4/12/99		4/14/99
121	Investigations - Procedure	0	Executive Decision made - #PRO06/99 (signed Apr 5)	7/31/96	4/5/99	4/1/99	4/5/99
129	Decisions and Application of Benefit of Doubt - Procedure	0	Procedure PRO04/1999 approved by CEO - signed Apr 1 (see #41, re POL04/1999)	3/9/99	4/1/99	3/22/99	3/31/99
44	Occupational Disease	0	Policy #POL07/1999 (signed Apr 15) - Proc #PRO07/1999 (signed Apr 30)	6/4/98	3/18/99	3/3/99	3/29/99
109	Distribution of 1998 Net Income	1	Board Admin Decision made - ADM01/1999 (signed Apr 5/99)	3/16/99	3/17/99		3/22/99
8	Investigations - Rescind Policy	0	Board Policy Decision made - #POL06/1999 (signed March 29/99)	7/31/96	3/8/99		3/8/99
41	Benefit of Doubt, Application of - #12/94	0	Policy #POL04/1999 (signed Mar 9/99) - Procedure #PRO 04/1999 (signed Apr 1)	5/31/98	2/22/99		3/4/99
56	Orthotics/Appliances (Eye Glasses) - Policy re Replacement or Repair	0	Board Decision made - #POL05/1999 (signed March 29/99)	7/29/98	3/1/99		3/3/99
40	A ities - Implement Bill 29	0	Board Decision made - #POL02/1999 - Signed March 9/99	6/17/98	2/22/99		2/22/99
31	Spousal Benefits-Worker death after 65/Retirement	0	Board Decision made - #POL03/1999 (signed March 9/99)	1/31/97	2/19/99	1/6/99	2/22/99
102	1998 - 2000 Collective Agreement	0	Exec Decision made - PRO01/1999 - signed Mar 3/99	1/21/99	1/21/99		2/19/99
17	Independence Allowance	0	Board Decision made - #POL01/1999 -signed Jan 11/99	9/30/97	1/4/99	12/9/98	1/11/99
80	Classification of Industries & Provisional Premium Rates	0	Board Decision made - #POL16/98 (signed Dec 21/98)	12/1/98	12/18/98		12/31/98
82	Clothing Allowance - CPI Adjustment	0	Exec Decision made - #PRO16/98 (Annual Update), no worksheet	12/1/98	12/18/98		12/21/98
83	Burial Expense - CPI Adjustment	0	Exec Decision made - #PRO16/98 (Annual Update), no worksheet	12/1/98	12/18/98		12/21/98
84	Dependent Child Expense - CPI Adjustment	0	Exec Decision made - #PRO16/98 (Annual Update), no worksheet	12/1/98	12/18/98		12/21/98

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#	Topic	Priority Code	Status	Request Date	Submitted to CEO	Returned	CEO/ Board Approval
85	Eye Glasses - CPI Adjustment	0	Exec Decision made - #PRO16/98 (Annual Update), no worksheet - can now remove schedule from procedure when it is revised	12/1/98	12/18/98		12/21/98
86	Annual CPI	0	Exec Decision made - #PRO16/98 (Annual Update), no worksheet	12/1/98	12/18/98		12/21/98
87	Sole Dependent Child Expense - CPI Adjustment	0	Exec Decision made - #PRO16/98 (Annual Update), no worksheet	12/1/98	12/18/98		12/21/98
88	Personal Care Allowances - CPI Adjustment	0	Exec Decision made - #PRO16/98 (Annual Update), no worksheet	12/15/98	12/18/98		12/18/98
91	Spousal Supplements - Old Act -CPI Adjustments	0	Exec Decision made - #PRO16/98 (Annual Update), no worksheet	12/7/98	12/18/98		12/18/98
96	Budget - 1999, Approval of	0	Board Decision made - ADM05/98 (signed Dec 21/98)	11/30/98	12/16/98		12/16/98
92	Maximum Assessable Wage Rate	0	Board Decision made - #POL17/98 (signed Jan 6/99)	12/7/98	12/11/98		12/9/98
75	Minimum Employer Personal Coverage - 1999	0	Board Decision made - #POL18/98 (signed Jan 6/99)	11/24/98	12/11/98		12/8/98
79	Penalty, Default in Assessment Payment	0	Exec Decision made - #PRO15/98 (Annual Update) - signed Dec 17	11/16/98	12/8/98		12/8/98
90	Expenses, Travel & Sustenance-Amendments	0	Exec Decision made - #PRO14/98 - Amends PRO10/98 re Private Accommodation (#68)	11/15/98	11/24/98		11/24/98
81	Maximum Wage Rate - Section 38 Schedule	0	(Annual Update) - Schedule to be updated once #74 is signed by Board, no worksheet	12/1/98	11/26/98		11/18/98
74	Maximum Wage Rate, 1999 - Section 38	0	Board Decision made - #POL15/98 (signed 4 Dec 98)	11/16/98	11/26/98		11/18/98
77	Minimum Compensation, 1999 - Section 76	0	Exec Decision made - #PRO13/98 (Annual Update), no worksheet	11/16/98	11/18/98		11/18/98
78	Minimum Average Weekly Earnings, 1999 - Section 70(5)	0	Exec Decision made - #PRO12/98 (Annual Update), no worksheet	11/16/98	11/18/98		11/18/98
42	Verification of Income	0	Board Decision made - #POL19/98 (signed Jan 6/99)	5/31/98	11/12/98		11/16/98
48	Attachment of Compensation	0	Board Decision made - #POL14/98	6/16/98	11/6/98		11/9/98
21	Suspension of Benefits (formerly worker withdrawal /Termination of RTW Plans/Training	0	Board Decision made - #POL13/98	12/31/97	10/27/98		10/19/98
36	Coverage, First Responders	0	Board Decision made - #POL11/98	4/30/98	9/23/98		10/1/98
68	Expenses, Travel & Sustenance-General	0	Exec Decision made - #PRO10/98 (new '98 PSC rates)	9/30/98	9/23/98		9/22/98
11	Coverage, Travelling to/for Work	0	Board Decision made - #POL12/98 (effective date 16/9/98)	7/31/96	9/18/98	10/5/98	9/16/98
63	Coverage - US Trucking Firms	0	Board Decision made - #POL10/98 (signed late Sept)	8/26/98	9/17/98		9/1/98
14	PFI General & Disfigurement	0	Board Decisions made-#POL08/98 w/ Procedure (PFI General) & #POL09/98 (Disfigurement)	7/31/96	8/31/98		8/31/98
57	Investment Policies & Objectives	0	Board Decision made - #ADM04/98	7/29/98	7/29/98		8/29/98

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#	Topic	Priority Code	Status	Request Date	Submitted to CEO	Returned	CEO/ Board Approval
89	Exercise Therapists Fees	0	Exec Decision made - #PRO11/98 ('98-'99 fee schedule)	8/31/98	8/28/98		8/28/98
60	Occupational Therapists Fees	0	Exec Decision made - #PRO07/98 ('98-'99 fee schedule)	6/30/98	8/10/98		8/12/98
61	Massage Therapists Fees	0	Exec Decision made - #PRO08/98 ('98-'99 fee schedule)	6/30/98	8/12/98		8/12/98
62	Psychologists Fees	0	Exec Decision made - #PRO09/98 ('98-'99 fee schedule) -signed 10 Sept 98	6/30/98	8/13/98	8/14/98	8/12/98
49	Chiropractor Fees	0	Exec Decision made - #PRO06/98 ('98-'99 fee schedule)	6/9/98	8/10/98		8/12/98
58	Physicians Fees	0	Exec Decision made - #PRO04/98 ('98-'99 fee schedule)	6/30/98	8/10/98		8/10/98
59	Physical Therapists Fees	0	Exec Decision made - #PRO05/98 ('98-'99 fee schedule)	6/30/98	8/10/98		8/10/98
18	Reversing Decisions	0	Board Decision made - #POL07/98 (amended #13/91)	10/31/97	4/27/98		4/28/98
30	Comp after 24 Months - Sect 70(5)	0	Board Decision made - #POL06/98	4/30/97	4/27/98		4/28/98
24	Medical Aid Fees for Professionals	0	Board Decision made - #ADM03/98	3/31/98	4/21/98		4/21/98
55	Medical Review Panels - Amend #POL09/96	0	Board Decision made - #POL09/96 amended				3/15/98
4	Funding Policy	0	Board Decision made - #POL04/98	7/31/96	3/9/98		3/11/98
20	Coverage, Trade Union Members	0	Board Decision made - #POL03/98 w/ Procedure	10/31/97	2/25/98		2/25/98
54	Medical Review Panels-Qualification of Binding of Decision	0	Board Decision made - #POL05/98	2/28/96			1/27/98
52	Opening of New Accounts/Carry-Forward of Costs Histories aff	0	Board Decision made - #POL01/98 with Procedure	11/30/97	1/19/98		1/22/98
66	Eye Glasses - Procedure for Replacement or Repair	0	Board Decision made - #ADM02/98				12/19/97
26	Garnishment of Benefits	0	Board Decision made - #POL02/98 with Procedure	11/30/97	11/25/97	12/2/97	12/3/97
5	Allowances, Educational-Dependent Children	0	Board Decision made - #POL03/97	7/31/96	7/18/97		7/18/97
198	Access and Data Security for SWCB's Internet Systems	2	Proposal sent for review by Executive July 27/00	7/27/00			
196	Clearances	3	Confirmed by CEO as Policy Request - 7/24/00	7/6/00			
195	Access and Data Security for SWCB's Internet Systems	0	Withdrawn and replaced by #198 in order to use Lotus Notes Proposal system	6/20/00		7/25/00	
193	Procurement Procedure - Amendment	2	Proposal confirmed by CEO May 26 as executive decision item	5/8/00			
192	In the Course of Employment	3	Proposal confirmed by CEO May 26 as policy item	5/4/00			
190	Disposal of Surplus Goods/Assets		Proposal form confirmed by Exec June 7 - RQuinn rewriting draft	4/18/00			

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#	Topic	Priority Code	Status	Request Date	Submitted to CEO	Returned	CEO/ Board Approval
178	Medical Fees - Physical Therapists, 2000	3	HCS preparing annual update	4/10/00			
179	Medical Fees - Chiropractic, 2000	3	HCS preparing annual update	4/10/00			
180	Medical Fees - Occupational Therapists, 2000	3	HCS preparing annual update	4/10/00			
182	Medical Fees - Psychologists & Counsellors, 2000	3	HCS preparing annual update	4/10/00			
183	Medical Fees - Massage Therapists, 2000	3	HCS preparing annual update	4/10/00			
184	Medical Fees - Audiologists, 2000	3	HCS preparing annual update	4/10/00			
185	Service Fees - Early Intervention Program Providers, 2000	3	HCS preparing annual update	4/10/00			
186	Medical Fees - Hospital Out Patient & Hi Cost Procedures, 2000	3	HCS preparing annual update	4/10/00			
187	Medical Fees - Hospital Per Diems, 2000	3	HCS preparing annual update	4/10/00			
174	Coverage - Young Offenders	1	DR-P (final draft) CPPD helping with changes recommended by Solicitor May 26	3/23/00			
189	Amend Second Injury and PFI Policies (To Provide Cost Relief for Pre-existing PFI)	1	Proposal form confirmed by Exec June 7	1/17/00			
169	Amendment - Suspension of Benefits		May 26/00 - Client Services indicated they are withdrawing intent to amend	11/16/99		5/26/00	
158	Maximum Wage Rate - Section 38 Schedule	0	Now included with policy - See #152	11/2/99		12/6/99	
159	Clothing Allowance - CPI Adjustment (163)	0	Exec Decision made - PRO63/1999, signed Dec 21	11/2/99	12/17/99	12/21/99	
160	Burial Expense - CPI Adjustment (163)	0	Exec Decision made - PRO63/1999, signed Dec 21	11/2/99	12/17/99	12/21/99	
161	Dependent Child Expense - CPI Adjustment (163)	0	Exec Decision made - PRO63/1999, signed Dec 21	11/2/99	12/17/99	12/21/99	
162	Eye Glasses - CPI Adjustment (163)	0	Exec Decision made - PRO63/1999, signed Dec 21	11/2/99	12/17/99	12/21/99	
164	Sole Dependent Child Expense - CPI Adjustment (163)	0	Exec Decision made - PRO63/1999, signed Dec 21	11/2/99	12/17/99	12/21/99	
165	Personal Care Allowances - CPI Adjustment (163)	0	Exec Decision made - PRO63/1999, signed Dec 21	11/2/99	12/17/99	12/21/99	
166	Spousal Supplements - Old Act -CPI Adjustments (163)	0	Exec Decision made - PRO63/1999, signed Dec 21	11/2/99	12/17/99	12/21/99	
148	Offsetting Earnings at Maximum	1	I/C resulted in several changes	9/21/99			
143	Allowance, Independence - Procedure Amendment	1	Draft DR-P done; being held until completion of more general review of the policy	7/12/99			
140	Coverage - Search & Rescue (SAR) Volunteers	3	Confirmation sent Dec 1-may not be necessary if #106 approved. Draft DR-P to VP June 15	5/25/99			

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136	Bridging Program	1	Final draft DR-P approved by VP and to CPPD June 20/00	5/17/99			
137	Hireline Program	2	Draft ER-P ret'd by Peter (as VP) thru CPPD to Dept for changes - Mar 27 (then I/C)	5/17/99			
132	Suitable Productive Employment	0	Withdrawn to be included with #6 - Long Term Earnings Replacement	5/12/99		12/7/99	
134	Allowance - Child Care, Invalid Care & Housekeeping Expenses	0	Interdepartmental feedback resulted in withdrawing housekeeping changes, and new item #172	5/12/99		12/15/99	
138	Selection of Chair and Members of Medical Review Panel		Proposal form to be presented to Executive	5/12/99			
127	Acceptance of Credit Cards for Payment of Monies Owing		Proposal being postponed pending further discussion with Exec - withdrawn	4/19/99			
126	Garnishment of Benefits	0	Withdrawn by CS and Board Services; Will do an info item recommending to discontinue	4/13/99		9/22/99	
125	Family Support in Exceptional Circumstances	3	Strategic Action #83 - draft to Voc Services by May 26 for their feedback by June 19	3/31/99			
115	Medical Fees - Physicians		HCS in discussions with Association - current agreement expires 31/03/99	3/22/99			
122	Chronic Pain	0	Item withdrawn pending review of ed. session by PS/RTW; If necessary can be re-activated	3/22/99		11/30/99	
111	Allowances, Educational - Amend Background	0	Withdrawn and included in #107 (Admin Dec)	3/19/99		9/23/99	
110	Duty to Accommodate	2	Confirmation being held pending CS review of claim duration issues (access to specialists)	3/12/99			
147	Information Storage and Release (formerly "Access to Information")	3	Initial feedback received from departments on general concepts; needs a lot more research	3/3/99			
105	Coverage, Volunteer Fire Fighters	3	Confirmation sent Dec 1 - may not be received #106 approved	2/19/99			
106	Applications for Special Coverages	3	CPPD and Legal assisting REA with draft DR-P and then send for interdepartmental consult	2/19/99			
104	Assessable Earnings	3	Changes to draft as requested by Grant, should be done and back to Grant May 9/00	2/2/99			
103	Write Offs of Uncollectible Employer Accounts	3	Confirmed Dec 1/99 - may be included in #53 - CEO Spending Authorities	1/25/99		7/22/99	
108	Procedure Manual - Issuance and Amendments	0	#107 approved by Board; ER-P with amended Proc docs to CEO	1/11/99	8/1/00		
97	Automated Arbitrary Assessing		Confirmed by Exec Nov 3/99 - Confirmation sent Dec 1/99 - may combine with 98, 99	1/5/99			
98	Payroll Reporting and Payment Process, Employer Accounts		On hold pending BPS recommendations	1/5/99			
99	Assessing & Cancelling Penalties on Employer Accounts		Confirmed by Exec Nov 3/99 - Confirmation sent Dec 1/99 - may combine with 97, 98	1/5/99			

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100	Optional Personal Coverage for Employers and Elected Officials		Writer has requested PRC to arrange focus groups to discuss policy issue(s)	1/5/99			
95	Coverage - Participants of Head Injury Work Placement Programs	3	On hold pending #106 - Applications for Special Coverage; i.e. may not be necessary	12/17/98			
93	Release of Information to News Media	0	This issue is now included in #147 re Access to Information (Strategic Action #61)	12/9/98		9/20/99	
76	Presumption where worker found dead at place of employment	0	Withdrawn per Board instruction in light of "Henry" decision - replaced by #124	11/26/98	2/22/99	3/29/99	
72	Authority of Client Service Representative	0	Declined by Exec as Decision Item at this time; returned to dept Jan 7/99	10/29/98		1/7/99	
71	Client Accommodation Expenses Over the Maximum	0	Included in #151 - Exec Decision made - PRO59/1999 (signed Oct 22)	10/27/98	10/21/99	10/22/99	
43	Wage Base when No Earnings (was Voluntary Firefighters)	0	Withdrawn (Feb 19/99) - plan to include with #106 re REA Authority for Determining Special Coverages	10/15/98		2/19/99	
69	Classification of Employers	2	Draft DR-P to VP Mar 3/99 for review before interdepartmental consultation (includes #70)	10/2/98			
70	Classification of Firms Operating in More than One Industry	0	Withdrawn to combine with #69 - per Jan 7/99 draft of #69	10/2/98		1/7/99	
53	Administrative Expenditure Limits of Chief Executive Officer	2	CEO has confirmed to go ahead; CPPD to research & write draft	9/2/98			
64	Lodging Appeals from Employers Regarding REA Issues	3	Draft DR-P to VP late Jan/99 for review, writer has indicated revision to draft expected for Oct/00	8/27/98			
65	Coverage, Work-Based Learning Programs - Saskatchewan Education (new title)	2	Changes to MOU by Solicitor for Departments reviewed July 18 (REA, CPPD, Board Solicitor)	8/27/98			
51	Interest on Employer Account Refunds Issued After 30 Days	3	Draft DR-P to VP late Jan/99 for review before interdepartmental consultation	7/16/98			
50	Coverage - Search & Rescue (SAR) Volunteers	0	Request for coverage withdrawn by Saskatchewan Municipal Affairs (letter Jan 6/99)	7/9/98		1/13/99	
94	Annuities-General (Old 9/82)	0	DR-P returned by CEO with questions; CPPD has advised department re changes	6/30/98	7/29/99	8/13/99	
46	Third Party Access to File Info	0	This issue is now included in #147 re Access to Information (Strategic Action #61)	6/9/98	9/9/98	9/20/99	
45	Merit/Surcharge Policies - Consolidation	1	Draft DR-P to VP late May/00 - already discussed by Board - no I/C required	6/5/98			
101	Merit/Surcharge Program - Revision	0	Declined by Board; may be brought forward for reconsideration in 1999	6/1/98	7/15/98	7/31/98	
38	Future Benefit Administration Reserve	2	new guidelines to establish/use FBAR per new Funding Policy	5/31/98			
39	Economic Stabilization Reserve	2	New to establish/use ESR-replaces Gen'l Res/BO #4/83; 12/12/73; 12/1/71	5/31/98			

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34	Stress Injury Claims	3	Discussion paper submitted to Exec/Board Dec/98	4/30/98	4/16/97	11/26/97	
35	In the Course of Employment	0	Withdrawn - review by CS dept determined that policy not necessary	4/30/98		5/31/99	
25	Time Loss due to Medical Appointments	0	Withdrawn - was intended to confirm current expense codes; not a policy issue	1/31/98		5/20/99	
19	Receiving EI, CDP, Social Assistance	3	Legal opinions to be reviewed in relation to Section 70 issues (#10)	10/31/97			
73	Equipment Provided for Use by Clients in RTW Programs	2	CPPD (Gerber) advised AI B re discussion with CEO Jan 26-AI B continues work on draft	8/31/97			
16	Fertilization Treatments	2	No action yet	7/31/97			
27	Coverage During Rest Breaks	2	Withdrawn from Policy Database-info item to be prepared for Board consideration - low priority	7/31/97		3/24/99	
32	Interest Payable on Successful Appeals	0	Withdrawn by CS (Feb 1/99) - planned changes to #02/94 no longer needed	7/31/97		2/1/99	
28	Hearing Loss	0	Withdrawn by CS: policy needs no change; CS agrees that the procedure is dept guideline	9/30/96		9/22/99	
1	Pension Commutation	0	CPPD reviewing as part of Manual Review Project	7/31/96	5/21/98		
2	Coverage, Wards of Saskatchewan Justice	1	DR-P (final draft) CPPD helping with changes recommended by Solicitor May 26	7/31/96			
3	Coverage - Independent Worker (new title)	0	DR-P to Board and interdepartmental consultation June 13 - I/C closes June 27	7/31/96	6/14/00	6/1/99	
6	Long Term Earnings Replacement	2	CPPD (Gerber) provided feedback on partial draft Feb 17 - AI B will continue working on it	7/31/96			
7	Minimum Compensation - Consolidation	1	Awaiting for legal opinion on how suspension of benefits effects qualifying for Section 70(5) increase	7/31/96			
10	Section 70	2	Draft DR-P forwarded to Board members Aug 31/99 for their feedback	7/31/96			
13	Overpayment Recovery	1	PEIA comments received - require a rewrite and anticipate further I/C	7/31/96			
15	Substance Abuse - new policy	0	Covered by #POL 13/98 - Suspension of Benefits (#21); rescinded pol/proc #11/90	7/31/96		10/19/98	
29	Travel and Sustenance for Medical Care	0	Withdrawn by CS (Dec 23/98) - no need for housekeeping amendment to Proc 13/93, clause "e"	4/30/96		12/23/98	

*DR=P Decision Request – Policy, Priority Codes: 0- Completed and sent to CEO, 1 – High / Urgent Priority, 2- Medium Priority, 3 – Low Priority